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इस भाग में यिन्हें पृष्ठ संख्या दी जाती है जिससे कि यह भाग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following report of the Joint Committee on the Bill to provide, in the economic and financial interests of the community, for the control of the production, manufacture, supply, distribution, use and possession of, and business in, gold, ornaments and articles of gold and for matters connected therewith or incidental thereto was presented to Lok Sabha on the 13th August, 1968:—

COMPOSITION OF THE COMMITTEE

Shri Bakar Ali Mirza—Chairman

MEMBERS

Lok Sabha

2. Shri K. M. Abraham
3. Shri S. M. Banerjee
4. Shri Onkar Lal Bohra

5. Shri Sonubhau Dagadu Baswant
6. Shri N. Dandekar
7. Shri George Fernandes
8. Shri Sitaram Kesri
9. Shri S. M. Krishna
10. Shri Brij Bhushan Lal
11. Shri K. Anbazhagan
12. Sirdarni Nirlep Kaur
13. Shri Krishna Chandra Pant
14. Shri Nanubhai N. Patel
15. Shri S. B. Patil
16. Shri R. Surender Reddy
17. Shri A. S. Saigal
18. Shri Dwaipayan Sen
19. Shri Sheo Narain
20. Shri Digvijay Narain Singh
21. Shri Chandrajeet Yadava
22. Shri Tridib Chaudhuri
23. Shri Nuggehalli Shivappa
24. Shri Om Prakash Tyagi
25. Shri Morarji R. Desai

Rajya Sabha

26. Shri B. C. Pattanayak
27. Shrimati Yashoda Reddy
28. Shri Gurmukh Singh Musafir
29. Shri Dayaldas Kurre
30. Dr. (Mrs.) Mangladevi Talwar
31. Shri Sukhdev Prasad
32. Shrimati Vimal Punjab Deshmukh
33. Shri Dahyabhai V. Patel
34. Shri Rattan Lal
35. Shri Balkrishna Gupta
36. Shri Z. A. Ahmad
37. Shri Banka Behary Das
38. Pandit S. S. N. Tankha

LEGISLATIVE COUNSEL

Shri S. K. Maitra, *Jt. Secy. and Legislative Counsel, Legislative Department, Miny. of Law.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE

1. Shri Jasjit Singh, *Gold Control Administrator and Joint Secretary to the Government of India.*
2. Shri R. C. Misra, *Deputy Secretary, Department of Revenue and Insurance.*
3. Shri K. Saravanai, *Under Secretary, Department of Revenue and Insurance.*

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE

1. The Chairman of the Joint Committee to which the Bill* to provide, in the economic and financial interests of the community, for the control of the production, manufacture, supply, distribution, use and possession of, and business in, gold, ornaments and articles of gold and for matters connected therewith or incidental thereto, was referred, having been authorised to submit the report on their behalf, present this their Report with the Bill, as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 22nd July, 1968. The motion for reference of the Bill to a Joint Committee of the Houses was moved in Lok Sabha by Shri Morarji R. Desai, Deputy Prime Minister and Minister of Finance on the 29th July, 1968 which was adopted on the same day.

3. Rajya Sabha discussed the said motion on the 31st July and 1st August, 1968 and concurred therein on the 1st August, 1968.

4. The message from Rajya Sabha was reported to Lok Sabha on the 2nd August, 1968.

5. The Committee held 4 sittings in all.

6. The first sitting of the Committee was held on the 2nd August, 1968 to draw up a programme of work. At this sitting, the Committee were apprised of the urgency and importance of the proposed legislative measure. As the time for the presentation of the Report was very short, the Committee decided that no evidence should be taken and that the evidence which was recorded at the time of the consideration of the Gold (Control) Bill, 1963 may be referred to.

7. The report of the Committee was to be presented by the 9th August, 1968. As this could not be done, the Committee, at their third sitting held on the 7th August, 1968, decided to ask for extension of time for presentation of their report upto the 13th August, 1968. Necessary motion for extension of time was brought before the House and adopted on the 9th August, 1968.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 22nd July, 1968.

8. 53 memoranda/representations/telegrams/ were received by the Committee from different Associations/individuals.

9. The Committee considered the Bill clause-by-clause at their Second and Third Sittings held on the 6th and 7th August, 1968, respectively and reconsidered certain clauses at their sitting held on the 9th August, 1968.

10. The Committee considered and adopted the Report on the 9th August, 1968.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause 8.*—The clause, as it existed, conferred power on the Central Government to perform all or any of the functions of the Administrator and to exercise, in the public interest, all or any of the powers conferred on him by the Act.

Since the Bill provides that the Administrator shall discharge his functions under the general control and directions of the Central Government, it was considered that the power envisaged by the clause should not be conferred on the Central Government and accordingly the clause has been omitted.

* * *

13. *Clause 11.*—This clause prohibits the obtaining of loan on the hypothecation, pledge, mortgage or charge of primary gold, or undeclared article of gold. The proviso to this clause, as at present worded, however, lays down that transfer or delivery of an article of gold which was not required to be included in a declaration could be made with the *prior authorisation* of the Administrator. The Committee feel that the provisions requiring such authorisation may create avoidable difficulties in the way of obtaining of loans on the security of articles which were not even required to be included in a declaration, and may thereby cause hardship to the persons concerned. It was considered sufficient if mere intimation of such transfer or delivery was given in writing to the Administrator. The proviso has been amended accordingly.

14. *Clause 12(1).*—The Committee feel that the clause, as worded at present, is capable of conveying an impression that a person who wishes to polish his own ornaments or articles of gold is also required to seek the permission of the Administrator to do so. To make the position clear, an Explanation has been added to this sub-clause

***Note.— Clause numbers given in various paragraphs of the Report have reference to clause numbers of the Bill as introduced. As clause 8 of the original Bill has been omitted, corresponding reference to the renumbered clauses of the Bill appended to the Report be made accordingly.

to the effect that the provisions thereof would not apply to a person who polishes in his dwelling house ornaments or articles of gold belonging to himself or to any other member of his family.

15. *Clause 17(5).*—The Committee feel that the proviso to this sub-clause is unduly restrictive with regard to jewellery owned by a family. The Committee are, therefore, of the view that the said proviso should be omitted.

The sub-clause has been amended accordingly.

16. *Clause 17(10).*—The sub-clause, as at present worded, does not lay down any time limit within which a person, who has acquired or parted with any quantity of gold subsequent to his making a declaration, should make an endorsement in relation to such acquisition of, or parting with, gold on the copy of the declaration in his possession although it is provided that such endorsed declaration should be produced before the Gold Control Officer within a period of seven days from the date of the endorsement. In the absence of any time limit for making such endorsement, the provision with regard to the production of endorsed declarations before the Gold Control Officer cannot be effectively implemented.

The Committee, therefore, feel that a period of thirty days should be specified for the purpose. Accordingly, the sub-clause has been amended to provide that endorsements on the declaration should be made within thirty days from the date of such acquisition of, or parting with, gold.

17. *Clause 29.*—This clause, as at present worded, prohibits the carrying on of money-lending or other business in the same premises in which a licensed dealer carries on business as a dealer. The Committee feel that it would cause hardship to those licensed dealers who traditionally carried on business not only in gold but also in other precious stones, gems, platinum, jewellery, ivory etc. and who also carried on money-lending business on the security of any movable property other than gold, if they were required to segregate their business premises for carrying on business as dealers. The Committee feel that such restrictions should be imposed only in respect of money-lending business against the security of gold. The clause has, therefore, been amended accordingly.

18. *Clause 40.*—Sub-clause (2) of this Clause, as at present worded, provides, *inter alia*, for specifying the period of validity of a certificate granted to a goldsmith. The Committee feel that a goldsmith should not be required to come up for renewal of his certifi-

cate from time to time. The Committee, therefore, are of the opinion that the certificate which is granted to a goldsmith should be valid during his life time unless it is cancelled earlier. This sub-clause has been amended accordingly.

The Committee also feel that a certified goldsmith who had given up his profession as a goldsmith and had taken rehabilitation benefits from the Government, should not be debarred from obtaining a certificate for carrying on work as a goldsmith, in case he wants to revert to his profession. The Committee, however, feel that such a goldsmith should be allowed to apply for the grant of a certificate only if he undertakes to repay (in instalments) the loan taken by him, within two years from the date of the grant of the certificate and if he omits or fails to do so, the certificate granted to him should be cancelled. Sub-clause (4) has been amended accordingly.

Sub-clause (6), as at present worded, lays down the criteria for the grant of a certificate. The Committee are of the view that such existing members of a goldsmith's family as have been assisting him in his work as a goldsmith for not less than one year should also be eligible to obtain a certificate even if he had obtained educational assistance or technical training facilities from the Government. The Committee also feel that no person, who had not already been in the profession of goldsmith, should be allowed to enter that profession, except in special cases where it may be necessary to grant a certificate in the public interest. These provisions have been included in the revised sub-clause (4) and sub-clause (6) has been suitably reworded.

The Committee also feel that a certified goldsmith should be allowed to have the assistance of a hired labourer for attending to his sundry jobs so long as such hired labourer does not make, manufacture etc. any article or ornament. The Committee feel that it should be made clear that the hired labourer shall not as such be eligible for the grant of a certificate. A new sub-clause (8) has, therefore, been inserted.

19. *Clause 43.*—This clause has been amended with a view to increasing from two hundred grammes to three hundred grammes the limit in relation to the quantity of primary gold which a certified goldsmith may have in his possession at any time.

20. *Clause 45.*—The Committee feel that a person who is a dealer should not be debarred from seeking employment as an artisan if he voluntarily gives up his business as a dealer. Sub-clause (1) has been amended accordingly.

Sub-clause (7) requires a licensed dealer or certified goldsmith, who accepts employment as an artisan, to surrender his licence or certificate, as the case may be. The Committee feel that such dealer or goldsmith should not be debarred from resuming his business as dealer or goldsmith on surrendering his identity card as an artisan and; if he does so, his licence or certificate should be restored to him, except that no such restoration should be made if such dealer or goldsmith had contravened any provision of law relating to gold or foreign exchange. Two new provisos have been added to this clause accordingly.

21. *Clause 67.*—The Committee feel that the words "or is about to be" were used in this clause presumably with a view to covering attempts to contravene the provisions of the Act. The Committee agree that the power of seizure conferred by this clause should also be available when there is an attempt to contravene the provisions of the Act. The Committee are, therefore, of the view that for the words "or is about to be", the words "or is attempted to be" would bring out the intention more clearly.

22. *Clause 68.*—The clause, as worded at present, provides for a presumption as to the truth of the contents of a document seized from the custody of a person and tendered in evidence against him. It puts the onus on the accused to rebut such presumption. The Committee feel that it would be difficult for the accused person to rebut the presumption. The clause has been suitably amended.

23. *Clause 73.*—The amendment made in this clause is of a formal nature to ensure that there is no apparent conflict between the penal provisions of this clause dealing with the carriage of offending gold by transport on hire and those of clause 74 which are of general nature.

24. *Clause 74.*—The amendment made in this clause seeks to reduce the maximum limit of fine in lieu of confiscation from "five times the value" of the thing confiscated to "twice the value" thereof.

25. *Clause 85.*—This clause, as at present worded, provides for finality of orders made in adjudication, appeal or revision. The Committee feel that apart from the powers of a High Court in exercise of its writ jurisdiction, such orders should also be open to scrutiny by a High Court in exercise of its ordinary jurisdiction on a question of law. The clause has been amended accordingly.

26. *Clause 101.*—The Committee feel that the provisions requiring a licensed dealer or refiner or certified goldsmith to take reasonable

steps to satisfy himself as to the identity of the person from whom he buys or accepts any gold are pre-eminently reasonable provisions. But the provisions of the clause to the effect that a presumption would arise that such dealer etc. had bought or accepted gold in contravention of the provisions of this Act, if the person from whom such gold was bought or accepted is not readily traceable or turns out to be a fictitious person, would lead to difficulties. The Committee feel that it should be sufficient if the dealer etc. establishes that he had taken all reasonable steps to ascertain the identity of the person from whom the gold was bought or accepted. The clause has, therefore, been re-drafted.

27. *Clause 109.*—The Committee feel that sub-clause (2) of this clause is covered by sub-clause (1). Hence sub-clause (2) has been omitted.

28. *Clause 1.*—The Committee feel that the provisions of the Act should not be made applicable to the citizens of India who are abroad. Hence sub-clause (3) of this clause has been omitted.

29. The Joint Committee recommend that the Bill as amended be passed.

New Delhi-1;

August 9, 1968.

Sravana 18, 1890 (Saka).

BAKAR ALI MIRZA,

Chairman,
Joint Committee.

MINUTES OF DISSENT

I

The Gold (Control) Bill as it has emerged from the Joint Committee in my opinion still continues to be a measure weighted against the goldsmiths and other small people engaged in their traditional professions.

Ostensibly the object of the Bill is to control the use of gold, prevent or reduce smuggling, hoarding and profiteering, unearth hidden gold, bring down the price. But the experience has shown that none of these can in effect be stopped not even significantly reduced under the existing socio-economic set up in the country.

The Bill only attacked the interests of goldsmiths and poor artisans. These two classes have become destitutes and new amendments that are being proposed in this Bill in no way improve the matter. Therefore, it is my considered opinion that the whole Bill should be scrapped. However, the majority in the Committee appeared to be in favour of going ahead with the Bill. I am submitting the minutes of dissent.

The lure of gold and the demand for it in the country for the purpose of ornaments etc. arise from the psychology and habits of the people arising from sentimental obscurantist attitudes and habits. These habits and attitudes arise out of the still strong feudal culture and tradition of our country. In order, therefore, to fight the fatal fascination which people in our country have for gold, it is necessary to inculcate scientific and modern attitudes to life and its problems. To imagine that we can superimpose a modern and refined outlook on people steeped in obscurantist tradition and feudal cultural values without finish cutting the very roots in which such traditions and values thrive is to believe in fantasies. I would, therefore, emphasise that while it is necessary to fight the superstitions and sentimental attachment to gold which we find among people, the surest way to achieve that objective is to destroy the strong survivals of feudalism from our economy and social organisation and to modernise it.

I now come to some of the clauses of the Bill. For example Clause 40 stipulates a number of conditions for getting a licence as a goldsmith. A goldsmith or his children who were not in the business for a year prior to 1962 will not get a licence. In other words if by chance a family has been for whatever reasons temporarily out of the profession for a year prior to 1962 ceases to have the option to resume his profession. I feel that this clause will adversely affect a large number of families. This condition along with the other conditions giving wide discretion to the administration for deciding the conditions for grant of certificates will lead to widespread corruption and arbitrariness etc.

Secondly the conditions that the certificates will be granted only to people who have repaid any loan in help taken from Government will hit the poorest ones among goldsmiths without any means of livelihood. It is strange that a Government which does not worry about the huge loans given to the big business houses without interest even in some cases should insist on repayment of distress relief as on precondition to allow poor goldsmiths to carry on their livelihood.

Again, there are innumerable restrictions on goldsmiths engaged as wage labourer which become unbearable. One result of these restrictions will be to place the goldsmiths employed as a wage-labourer by authorised dealers at the mercy of his employer and the gold control officer would turn him into a virtual slave.

I do not want to prolong my dissenting note by emphasising and explaining all my differences with the report. I have stated only my strong objections to the clause relating to goldsmiths and their problems. This Bill, I feel, will be a catastrophe for lakhs of our traditional artisans.

NEW DELHI;
The 9th August, 1968.

K. M. ABRAHAM.

II

The Gold Control Order—was promulgated in January 1963—under the Defence of India Rules. The objectives set-forth for that order were:—

1. to prevent smuggling of Gold and thereby conserve foreign exchange;

2. to disgorge hoarded Gold; and
3. to reduce the demand and the price of the Yellow-Metal.

Experience for the past five years and more has shown that none of these objectives—laudable as they were—has been fulfilled. I doubt very much whether they will ever be fulfilled with the measures, statutory or otherwise taken by the Government so far.

These statutory measures adopted in the past and also those proposed in this Bill—under consideration—do not go far; they aim to treat the symptoms rather than the disease. There can be no two opinions—that smuggling is bad, that hoarding is bad, that we should conserve foreign-exchange, that people should be weaned away from the lure of gold etc. All these anti-social activities are bad not only in respect of gold but in respect of any other commodity. Unless steps are taken to prevent smuggling, to plug the loop-holes in foreign exchange activities, to eradicate the abuse of over-invoicing or under-invoicing etc., smuggling in one form or the other will always thrive.

To say that people are attracted or enamoured of gold is to simplify the entire matter. People take to Gold because it proves to be the only safe-guard against the reckless inflation and the winding value of the rupee. If the currency had been stabilised and the prices held up at a reasonable level, people would not have gone to gold.

For the mis-deeds of the financial tycoons—and foreign exchange racketeers, the governmental measures have been punishing the poor gold-smiths and artisans. No satisfactory settlement has been made to give them alternate employment or to ameliorate their grievances. Neither the present Bill—as emerged from the Joint Committee does hold any hope of solving the difficulties of the Gold-smiths and the artisans.

Harsh are the conditions, getting a license or certificate for maintaining intricate accounts by the illiterate; for employment of goldsmiths who are engaged in the trade as wage-labourers; for repayment of loans in the wake of continued unemployment for a long number of years. Rehabilitation of the Gold-smiths who were thrown out of the traditional works in lakhs has not been attended to by the government in any satisfactory manner.

The present Bill does not give any indication how the dislodged gold-smiths will be rehabilitated in his own work or provided with alternate source of livelihood.

I feel that the basis and the structure of the present Bill require drastic modifications.

NEW DELHI;
The 10th August, 1968.

K. ANBAZHAGAN.

III

भारत सरकार ने सम् ८३ में स्वर्ण नियन्त्रण विधेयक को जिस उद्देश्य से पारित किया था, वह इस प्रकार थे :—

- 1—स्वर्ण का तस्करी व्यापार रोकना।
- 2—स्वर्ण के प्रति आकर्षण समाप्त करना।
- 3—स्वर्ण का मूल्य घटाना।

हम सरकार के ऊपर लिखित उद्देश्य से पूर्णतः सहमत हैं। हमारा यह बूँद भवत है कि अब वे इयरों का जो स्वर्ण आज हमारी कुप्रथाओं के कारण अलंकारों के रूप में मूर श्रवस्था में पड़ा है वह देश की आर्थिक एवं आर्द्धोगिक उन्नति में लगे परन्तु इस उद्देश्य की पूर्ति के निमित्त सरकार ने जिस मार्ग को अपनाया है वह अव्यवहारिक तथा अष्टाचार को बढ़ावा देने वाला है। इसका प्रबल प्रमाण यह है कि जब से स्वर्ण नियन्त्रण विधेयक लागू किया गया है तब से स्वर्ण का तस्करी व्यापार कोई गुण बढ़ गया है, स्वर्ण का मूल्य आकाश को चूम रहा है, और स्वर्ण के प्रति जनता में आकर्षण आशयजनक रूप से बृद्धि को प्राप्त हो गया है। हां, इतना अवश्य दुधा है कि स्वर्ण नियन्त्रण के नाम पर लाखों स्वाक्षरों को बेकार बनाकर उनके परिवारों को मुख्य के मुख में डाल दिया गया है। प्रमाण स्वरूप बिल के लागू होने के पश्चात् ग्रेकेले बम्बई के बन्दरगाह से तीन साल तोला स्वर्ण तस्करों से पकड़ा गया है, सोने का भाव 118 प्रति तोला से 180 तोला हो गया है एवं अलंकारों की मांग कहीं अधिक है।

सरकार को ध्याहिये तो यह था कि गत अनुभव के आधार पर इस विधेयक की कुछ कमियों को दूर करके इसे व्यवहारिक बनाती, परन्तु दुर्भाग्यवश सरकार ने विपरीत मार्ग अपनाकर अब इसे इस रूप में उपस्थित किया है कि इससे अष्टाचार को बढ़ावा मिलेगा, तस्करी का व्यापार बढ़ेगा, स्वर्ण का मूल्य ऊपर उठेगा तथा सरकारी अधिकारियों तथा पुलिस को प्रतिष्ठित स्वर्ण व्यापारियों को तंग कर उनसे मनमानी रिश्वत लेने का अवसर मिलेगा और स्वर्णकारों का स्वर्णकारी का अविष्य अन्धकारमय बन जायगा।

इस विधेयक की अव्यवहारिकता एवं असफलता की मूल बात यह है कि इसमें सोने के व्यापार पर नियन्त्रण करने का प्रयास किया गया है, परन्तु जनता में व्याप्त स्वर्ण के प्रति आकर्षक को समाप्त करने की विश्वा में लेशमान भी प्रयत्न मर्हीं किया गया है। अर्थ-शास्त्र का क-ख जानने वाला विद्यार्थी भी इस साधारण बात को जानता है कि कोई भी व्यापार वस्तु भी मांग और उसकी उपलब्धि पर आधारित होता है। अतः जब सरकार ने स्वर्ण व स्वर्ण के अलंकारों की मांग को कम करने को था उस पर नियन्त्रण करने की विश्वा में कुछ नहीं सोचा है तो फिर

वह उसके व्यापार पर केवल डण्डे के बल पर नियंत्रण कैसे कर सकती है। बलात् किये नियंत्रण का स्पष्ट प्रर्थ है कि यह व्यापार काले बाजार का रूप धारण कर जायेगा और सरकारी नियंत्रण एक घोलामात्र रह जायगा।

सरकार ने इस तथ्य से आंखें मूँछ लीं हैं कि भारत की अधिकांश जनता गांवों में रहती है और अपढ़ है। भारत में आदिकाल से स्वर्ण के प्रति आकर्षण रहा है और विवाह में स्वर्ण के अलंकार अनियार्यता की स्थिति में रहते हैं। स्वर्णलिंकारों की संख्या पर ही लड़की व लड़का बाले परिवारों की प्रतिष्ठा को आंका जाता है। जब से अनाजों का भाव ऊंचा उठा है, और ग्रामीण अन्धुओं के पास अच्छी धनराशि आई है जब से स्वर्णलिंकारों की मांग अनुमान से भी अधिक हो गई है। यह मांग इस सीमा तक चली गई है कि आज वह पिछड़ा हरिजन वर्ग भी जो निधनता के कारण किसी दिन स्वर्णलिंकार बनवाने में असमर्थ था वह अब स्वर्णलिंकार बनवा रहा है। इससिये जब तक ग्रामीण जेव में बड़े रही स्वर्णलिंकारों की मांग कम नहीं होती तब तक स्वर्ण पर नियंत्रण करना या होना असम्भव नहीं तो कठिन अवश्य है।

सरकार द्वारा प्रस्तुत विधेयक में दूसरा बड़ा दोष यह है कि सरकार ने समस्त स्वर्णकारों को चौर व देईमान मान कर इसे बनाया है। सरकार की यही धारणा इस विधेयक की असफलता का कारण बनेगी। विधेयक के अनुच्छेद 12 की समस्त धाराओं ने स्वर्णकारों व स्वर्ण व्यापारियों की स्वर्ण नियंत्रक अधिकारियों की दया पर छोड़ दिया है। अधिकारी धारा 59-60 के अनुसार मन्देहमात्र पर किसी भी व्यापारी के घर की तलाशी ले सकता है और उसे बन्दी बना सकता है। परन्तु मन्देह निराधार सिद्ध होने पर अधिकारी को दण्डित नहरने या उस पर मानहानि का बाबा करने की कोई व्यवस्था नहीं है। धारा 88 के अनुसार केवल रिटर्न ने भेजने मात्र पर तीन वर्ष तक फी सजा देने का विधान है। स्वर्णकार बहुधा साधारण पढ़े लिखे होते हैं। रिटर्न रखने व भेजने में उनसे कुछ भूल होना स्वाभाविक है। अतः यह द्वारा आवश्यकता से अधिक सख्त है। धारा 11 के अनुसार व्यापारियों पर सभी द्रायल लाद कर उन्हें सही न्याय प्राप्त करने से वचित कर दिया गया है। और उन पर मनमाना फैसला थोपने का प्रयत्न किया गया है। सरकार ने अब संशोधन के रूप में उच्च न्यायालय में अपील करने की अनुमति दी है। परन्तु उच्च न्यायालय में जाना प्रत्येक व्यक्ति की सामर्थ्य से बाहर है।

विधेयक में सबसे अधिक धातक बात यह है कि इसके अनुसार एक स्वर्णकार को स्वर्ण-कारी का कार्य करने से यथासक्ति रोकने का प्रयत्न किया गया है। यह जात भारतीय विधान के विपरीत है। धारा 40 (6) के अनुसार प्रत्येक स्वर्णकार व कारीगर को काम करने का प्रमाण-पत्र प्राप्त करना अनियार्य होगा और प्रमाण-पत्र देने की शर्तें ऐसी हैं जिनके अनुसार प्रमाण-पत्र का देना न देना सरकार की इच्छा पर छोड़ दिया गया है, प्रमाण-पत्र की स्थापना करना ही भिन्न करती है कि सरकार स्वर्णकारों को समाप्त करना चाहती है अन्यथा इसकी क्या आवश्यकता है। यदि सरकार प्रमाण-पत्र अपनी सुविधा के लिए आवश्यक समझती है तो फिर इसकी प्राप्ति की प्रत्येक स्वर्णकार को सुविधा मिलनी चाहिए। नगे व्यक्ति को तो प्रमाण-पत्र धारा 40 के अनुसार असम्भव जैसा ही है। सरकार ने इस धारा के द्वारा स्वर्णकारों के बच्चों को भी इस धर्म में अपने से रोक दिया है।

धारा 51 (1) के अनुसार स्वर्ण नियंत्रण अधिकारियों को स्वर्णकारों के प्रमाण-पत्र छीनने व रह करने का अधिकार देकर सरकार ने स्वर्णकारों के पेट पर लात मारने की कुर्चेपटा

की है और दोषी मिल होने में पूर्व ही उसको काम करने से रोकने का अर्थ है उसके परिवार को भिखारी बना देना। इसके अतिरिक्त दोष करने पर दोषी को दण्डित करने का यह अर्थ कदापि नहीं है कि व्यक्ति में भविष्य में उसके कार्य करने का श्रविकार ही छोन लिया जाय। इसका स्पष्ट अर्थ है कि गरकार एक व्यक्ति से उसका कार्य छीनकर उसे चोर घड़ाकू बनने पर विवश कर रही है। अन्यथा जिस व्यक्ति ने जीवन भर जो कार्य किया है उसके अतिरिक्त वह क्या करेगा। सरकार के पास दण्ड देने के अन्य अनेक प्रभावशाली कुंग हैं परन्तु प्रमाण-पत्र छोनना कदापि न्यायोचित नहीं है।

आशवर्य की वात है कि स्वर्णकार को कार्य करने का प्रमाण-पत्र देने के पछात् सरकार ने उसे अपने यहाँ धारा 43 के अनुसार 300 ग्राम से अधिक मुद्रा स्वर्ण रखने की अनुमति नहीं दी। इस प्रकार सरकार ने उसके कार्य पर प्रतिबन्ध लगा कर संविधान से विरुद्ध कार्य किया है। प्रमाण-पत्र का अर्थ है कि वह अपनी इच्छानुसार कार्य कर सकता है। परन्तु इस धारा ने उसकी इच्छा का कार्य शक्ति दोनों पर अर्थ प्रतिबन्ध लगाया है। प्रतिबन्ध के पीछे सरकार का क्या उद्देश्य है यह भी अप्पष्ट है।

धारा 10। ८ अनुसार व्यापारी को किसी व्यक्ति से सोना लेने व खरीदने से पहिले उसको पूरा पारिव्य होना चाहिए। अन्यथा उसका उत्तरदायित्व व्यापारी पर होगा। सभस्त ग्राहकों का परिचय प्राप्त करना एक व्यापारी के लिए सर्वथा असम्भव एवं अव्यवहारिक है। इससे व्यापार को भारी ठेस पहुंचेगी।

अतः हमारा यह दृढ़ मत है कि उद्देश्य अच्छा होते हुए भी यह विधेयक वर्तमान रूप में देश के लिए प्राप्त शिष्ट होगा और अपने उद्देश्य की प्राप्ति में सफल न हो सकेगा। इसके द्वारा भ्रष्टाचार को दृढ़ता भिलेगा और लाखों स्वर्णकार बरबाद हो जायेगे एवं स्वर्णकारों की महान कला का भी लोप हो जायेगा। इसके अतिरिक्त सरकार को 2700 लाख रुपये का घाटा इकम टैक्स और लगभग 50 करोड़ रुपया की हानि दस्करी व्यापार के लिए इसलिए सरकार को चाहिए कि रक्षण नियंत्रण द्वारा लिए गए हिसात्मक मार्ग की अपेक्षा अहिसात्मक मार्ग को अपनायें अर्थात् शिक्षा व प्रचार के द्वारा लोगों के हृदय में स्वर्ण के प्रति परन्परा से बने प्रेम का उन्मूलन करें। कानून के द्वारा भी स्वर्ण पर नियंत्रण हो इसके भी हम पक्षपाती हैं परन्तु वह कानून व्यवहारिक होना चाहिए और वह स्वर्णकारों की बद्दियों का कारण नहीं होना चाहिए। भ्रष्टाचार, दस्करी, काला बाजार आदि का कड़ाई से साथ दमन होना चाहिए।

खेद के साथ कहता है कि इस विधेयक के महान् उद्देश्य से सहमत तो हुए भी हम इस विधेयक का ऊपर लिखित कारणों से धोर विरोध करते हैं।

नई दिल्ली ;

12 अगस्त 1968

प्रेस प्रसारण त्यागी

ब्रज भूषण

रतनलाल

[English translation of the above.]

The aims of passing the Gold Control Order in 1963 by Government were:

1. Checking Gold smuggling;
2. Ending the lure for Gold; and
3. Reducing the price of Gold.

We fully agree with these aims. We are also of this opinion that gold worth hundred of crores of rupees in the shape of ornaments etc. which is today lying in a derment state should be invested in the country's economic and industrial advancement, but the path pursued by Government to achieve this objective is impracticable and encourage corrupt practices. The most eloquent proof of this is that gold smuggling has increased many folds, gold-price is touching the skies and the lure for gold in the people has increased to a surprisingly great extent. Of course, lakhs of goldsmiths have no doubt been rendered out of jobs and their families have been forced into the jaws of death thereby. As proof thereof, 3 lakh tolas of gold has been seized from Bombay port alone. after the introduction of this legislation and gold prices have shot up from Rs. 118/- per tola to Rs. 180/- per tola and gold ornaments are in much higher demand.

The Government should have rectified the shortcomings of existing legislation to make it more practicable, but on the other hand, Government has adopted a reverse course. Whereby corruption and smuggling would increase, gold-prices would go up and Government official and police would get a chance to harass established bullion traders and exact as much hust-money as they would like from them and the future of Gold smiths and their vocation would be rendered all the more darker.

The basic reason for the impracticability and failure of this Bill is the attempt to control gold-trade. Whereas no attempt has at all been made to reduce the lure of gold in the public. A student of even elementary economics knows this basic principle that the demand of a commodity depends on its supply. Hence, when Government have not thought of doing any thing to curb the demand of gold and gold ornament, how they can hope to curb its trade by force. Forced control will result in black-marketing in gold and Government control will become a force.

Government have ignored the fact that a majority of people in India live in villages and are illiterate. Lust for gold in India is age-old and gold ornaments are a must in marriages. The number and weight of gold ornaments determine the social status of girl's and boy's families. With rise in foodgrain prices and villagers having become well-off, the demand for gold ornaments has exceeded all expectations, so much so that even Harijans who hitherto could not afford such ornaments are also going in for gold ornaments. Hence, as long as increasing demand for gold ornaments in villages is not curbed, it is difficult, if not impossible, to have controls on Gold.

The second serious flaw in the Bill is Government's view whereby all goldsmiths have been considered 'thieves' and dishonest. This view of Government would spell its failure. Clause 12 of the Bill has left goldsmiths and bullion-dealers at the mercy of gold control authorities. The officials can, under clauses 59 and 60, search the premises of a dealer and arrest him but no provision exists to punish or file a suit of defamation against the said official in cases of such suspicious turning out to be baseless. Under clause 88 there is a provision of imprisonment upto three years for only not sending the returns. Goldsmiths are generally less educated persons, therefore, it is obvious for them to commit mistakes in preparing and filing their returns. Therefore, this clause is stringent more than is necessary. Clause 11 deprive them for getting true justice by imposing summary trials on them and attempt has been made to impose arbitrary decisions on them. Now Government has, by amending the procedure, allowed them to go in appeal in the High Court. But is not in the power of everyone to go to the High Court.

The most fatal provision is the attempt to prevent Goldsmiths from pursuing their profession as far as possible. This is against Indian Constitution. Under clause 40(6) every Goldsmith and his employees shall have to obtain a certificate recognising him as such and the terms and conditions governing the grant of such certificate leave everything in the hands of Government. The introduction of this system proves that Government wants to finish Goldsmiths. If Government considers it necessary for administrative facility, it should be made easily available to every Goldsmith. It has almost been denied to a new Goldsmith under clause 40. Government have presented the children of Goldsmiths from adopting this profession.

Government have tried to snatch away the bread of Goldsmiths by investing the power of seizure and cancellation of such certificates

in Gold Control Officers under clause 51(1) and doing so before proving him guilty means rendering his family beggars. Apart from this conviction of the guilty should never mean denial of his right to follow this vocation in future. This is clearly meant to force him to become a thief and dacoit by denying him his vocation. Because, what else a person would do than following his lifelong profession? Government have many other effective means of punishing a guilty person, but seizure of his certificate can never be justified.

It is surprising that under clause 43, a Goldsmith, even after having a certificate, shall not be allowed to possess more than 300 grammes of primary gold. Government have by putting restrictions on his work, acted in an unconstitutional manner. A certificate allows him to work as he lives. But this clause restricts his desire and capacity to work. The purpose of Government behind this restriction is not clear.

Under clause 101, a dealer should satisfy as to the full identity of the person, from whom such gold is being bought. Otherwise, he would be fully responsible therefor. It is very difficult and not feasible for a dealer to establish full identity of each customer. This will seriously hit his trade.

Therefore, we are of this firm view, that although the objective of the Bill is good, it will prove fatal for the country in its present form and it shall not succeed in its objective. This would encourage corruption and lakhs of Goldsmiths would be undone and the great art of Goldsmithy would be destroyed. Apart from this, Government would have to suffer a loss of 27 crores of rupees by way of income-tax and 50 crores of rupees by way of gold smuggling. Government should adopt non-violent means rather than violent ones to enforce gold control, i.e. bring to an end the traditional lure for gold from the minds of the people through education and publicity. We are also in favour of achieving Gold Control through legislation, but such legislation should be practical and it should not spell the doors of Goldsmiths. Corruption, smuggling and black marketing should be curbed with an iron hand.

We state with regret that although we are in favour of the noble ideal behind this legislation, we strongly oppose it for the aforesaid reasons.

NEW DELHI;
The 12th August, 1968.

OM PRAKASH TYAGI
BRIJ BHUSHAN
RATAN LAL

IV

We are still of the opinion that this Bill is unnecessary. It is quite clear now that the objectives, for which the Gold Control was brought, have been defeated. What were the three objectives? It was said that while bringing the gold control, there will: (1) be reduction in price of gold; (2) smuggling will be stopped or at least minimised; and (3) concealed gold will come on the surface. Unfortunately none of those objectives has been achieved. On the other hand there had been untold misery on thousands of goldsmiths and some of them had to commit suicide because they could not see their family members starving. It would have been better, had the Government withdrawn this Bill gracefully even at the stage. Certain minor amendments have been accepted, but unfortunately this has not changed the complexion of the Bill. We are afraid that such wide powers will be mis-used.

We, therefore, appeal to our friends in Parliament to raise their voices and see that this useless piece of legislation is thrown out. We are utterly dis-satisfied the manner in which basic amendments have been rejected.

NEW DELHI;

S. M. BANERJEE

The 12th August, 1968.

Z. A. AHMED

GEORGE FERNANDES

TRIDIB CHAUDHURI

V

In our opinion this whole project of Gold Control is a very costly exercise in futility, without the virtue of being, demonstrably, so much in the best national interest as to make it worth attempting.

NEW DELHI;

DAHYABHAI V. PATEL

The 10th August, 1968.

N. DAÑDEKER

VI

Though the present Gold Control Bill which is to replace the Ordinance promulgated after the expiry of the Defence of India Rules, is an improved version of the Gold Control measures previously imposed, yet I cannot support it as it has defeated its purpose. I would have gladly lent my support, had the Government achieved its purpose of checking smuggling of the metal, reduction of price of gold to the International level, weaning away the

people from the allurement of gold and rehabilitation of lakhs of artisans and small goldsmiths who lived on it as a traditional occupation. Neither of its declared objectives have been attained. On the other hand the measure has pushed many of the artisans and small goldsmiths to the streets to add to the large army of unemployed people.

A change in approach is needed and public edaction can only bring about a change in attitude to gold. Stringent measures to check smuggling can be resorted to, but failure of the Government in this front should not lead them to a measure which affects the livelihood of lakhs of people. Let the hoarded gold of the richer sections be unearthed and used for the benefit of the society and the gold smuggler's paradise be demolished, but the cottage of the small man should be left out, when the Government has no alternatives to offer to him.

BANKA BEHARY DAS

NEW DELHI,

The 10th August, 1968.

Bill No. 56-B of 1968

THE GOLD (CONTROL) BILL, 1968

[As reported by the Joint Committee]

ARRANGEMENT OF CLAUSES

CLAUSES

CHAPTER I

PRELIMINARY

1. Short title and extent.
2. Definitions.
3. Act not to apply to gold belonging to Government or the Reserve Bank.

CHAPTER II

ADMINISTRATOR AND GOLD CONTROL OFFICERS

4. Appointment and functions of Administrator and Gold Control Officers.
5. Power of Administrator to issue directions and orders.
6. Power of Administrator to call for returns as to receipt or sale of hypothecated gold.
7. Administrator, etc., to be public servants.

CHAPTER III

RESTRICTIONS RELATING TO THE MANUFACTURE, ACQUISITION, POSSESSION, SALE, TRANSFER OR DELIVERY OF GOLD

8. Restrictions regarding acquisition, possession and disposal of gold.
9. Restrictions on the disposal of gold acquired under any authorisation made by the Administrator.
10. Loans not to be obtained on hypothecation of primary gold or undeclared gold.
11. Prohibition regarding making, manufacturing, etc., of primary gold, articles, ornaments, etc.

CHAPTER IV**POSSESSION OF GOLD BY PUBLIC RELIGIOUS INSTITUTIONS****CLAUSES**

12. Ban on possession of primary gold when not to apply to primary gold which forms a part of structure, etc., of public religious institutions.
13. Disposal of gold received as offerings.
14. Submission of monthly accounts.
15. Responsibility of the person in charge of public religious institution.

CHAPTER V**DECLARATIONS**

16. Declarations as to articles or ornaments.

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CLAUSES

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CLAUSES

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CLAUSES

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Bill No. 56-B of 1968

THE GOLD (CONTROL) BILL, 1968

(AS REPORTED BY THE JOINT COMMITTEE)

[Words side-lined or underlined indicate amendments suggested by the Committee; asterisks indicate omission.]

**A
BILL**

to provide, in the economic and financial interests of the community, for the control of the production, manufacture, supply, distribution, use and possession of, and business in, gold, ornaments and articles of gold and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- (1) This Act may be called the Gold (Control) Act, 1968.
(2) It extends to the whole of India.

**Short
title,
and
extent**

* * * * *

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Administrator" means the Administrator appointed under section 4;

(b) "article" means any thing (other than ornament), in a finished form, made of, manufactured from or containing, gold, and includes—

(i) any gold coin,

(ii) broken pieces of an article,

but does not include primary gold;

(c) "artisan" means a person (other than a certified goldsmith) who is employed by a licensed dealer, whether on cash or deferred payment or on commission, remuneration or other valuable consideration, to make, manufacture, prepare, repair, polish or process any article or ornament or to melt, process or convert gold for the purpose of making, manufacturing, preparing, repairing or processing any article or ornament;

(d) "certified goldsmith" means a self-employed goldsmith who holds a valid certificate, referred to in section 39;

(e) "coin" means a thing which is stamped and issued by or on behalf of Government or by any other authority in exercise of its sovereign power in order to be used for the time being as money, whether such coin is a current coin or not;

(f) "commencement of Part XIIA of the Defence of India Rules, 1962" means the day on which that Part was initially inserted into the Defence of India Rules, 1962, that is to say, the tenth day of January, 1963;

(g) "company" means a company as defined in section 3 of the Companies Act, 1956, and includes a foreign company as defined in section 591 of the said Act;

(h) "dealer" means any person who carries on, directly or otherwise, the business of making, manufacturing, preparing, repairing, polishing, buying, selling, supplying, distributing, melting, processing or converting, gold, whether for cash or for

deferred payment or for commission, remuneration or other valuable consideration, and includes—

(i) a Hindu undivided family which carries on such business;

21 of 1860.
the Societies Registration Act, 1860, co-operative society incorporated under any law with respect to co-operative societies, club, firm or other association of persons which carries on such business, or—

(a) buys or accepts gold (for the purpose of making ornaments) from,

(b) makes, manufactures, prepares, repairs or polishes ornaments for,

(c) processes, melts or converts gold (for the purpose of making ornaments) for,

(d) sells, supplies or distributes ornaments or other gold (for the purpose of making ornaments) to,

its members;

(iii) a commission agent, broker, *del credere* agent, auctioneer or other mercantile agent, by whatever name called, who carries on such business on behalf of any principal,

but does not include the Reserve Bank of India, the State Bank of India, any subsidiary bank as defined in clause (k) of section 2 of the State Bank of India (Subsidiary Banks) Act, 1959, or any banking company as defined in clause (c) of section 5 of the Banking Regulation Act, 1949, in so far as such bank sells or transfers, or exhibits for sale or transfer, any gold.

38 of 1959.

10 of 1949.

*Explanation.—*For the purposes of this Act—

(a) every person who acts as an agent of a dealer residing outside India and carries on the business of such dealer in India or acts on behalf of such dealer as—

3 of 1930.

(i) a mercantile agent as defined in the Sale of Goods Act, 1930, or

(ii) an agent for handling gold or documents of title relating to gold, or

(iii) an agent for the collection or payment of sale price of gold or as a guarantor for such collection or payment; and

(b) every branch in India of a firm or company having its registered office outside India, if such firm or company is a dealer,

shall be deemed to be a dealer;

(i) "declaration" means a declaration which is required by this Act or was required by rule 126-I of the Defence of India Rules, 1962, or the Gold (Control) Ordinance, 1968, to be made ^{6 of 1968.} with regard to the ownership, possession, custody or control of gold;

(j) "gold" means gold, including its alloy (whether virgin, melted or re-melted, wrought or unwrought), in any shape or form, of a purity of not less than nine carats and includes primary gold, article and ornament;

(k) "gold coin" means a coin made of gold of any purity, whether such purity exceeds nine carats or not;

(l) "Gold Control Officer" means a Gold Control Officer appointed under section 4;

(m) "licensed dealer" means a dealer who holds a valid licence granted under section 27 authorising him to carry on business as a dealer;

(n) "licensed refiner" means a refiner who holds a valid licence granted under section 17 authorising him to carry on business as a refiner;

(o) "notification" means a notification published in the Official Gazette;

(p) "ornament" means a thing, in a finished form, meant for personal adornment or for the adornment of any idol, deity or any other object of religious worship, made of, or manufactured from, gold, whether or not set with stones or gems (real or artificial), or with pearls (real, cultured or imitation) or with all or any of them, and includes parts, pendants or broken pieces of ornament.

Explanation.—For the purposes of this Act, nothing made of gold, which resembles an ornament, shall be deemed to be an ornament unless the thing (having regard to its purity, size, weight, description or workmanship) is such as is commonly used as ornament in any State or Union territory;

(q) "prescribed" means prescribed by rules made under this Act;

(r) "primary gold" means gold in any unfinished or semi-finished form and includes ingots, bars, blocks, slabs, billets, shots, pellets, rods, sheets, foils and wires;

(s) "refiner" means a person who, being the owner, lessee or occupier of a refinery, is engaged in the business of melting, assaying, refining, alloying or extracting gold from any ore, salt or chemical or subjecting it to any other process;

(t) "refinery" means a place where gold is melted, assayed, refined, alloyed or extracted from any ore, salt or chemicals or subjected to any other process for the purpose of making primary gold and includes a place where gold is assayed at the request of any dealer or other person, whether for the purpose of making primary gold or not, but does not include a place where gold is melted, alloyed or subjected to any other process by a licensed dealer or his artisan or a certified goldsmith for the purpose of making, manufacturing, preparing, repairing, polishing or processing any article or ornament;

(u) "standard gold bar" means primary gold of such fineness, dimensions, weight and description and containing such particulars as may be prescribed;

(v) "value", in relation to primary gold, article or ornament, means,—

(i) when the gold is seized under this Act, the market price of such gold as on the date of the seizure thereof,

(ii) when the gold is not available for seizure, the market price of such gold as on the date on which the notice referred to in section 79 is issued.

Explanation.—"market price",—

(i) in relation to gold seized, means the price at which such gold is ordinarily sold or offered for sale at, or near to, the place of seizure; and

(ii) in relation to any other gold, means the price at which such gold is ordinarily sold or offered for sale at, or near to, the place where the offence in relation to that gold is detected.

3. Nothing in this Act shall apply to, or in relation to,—

Act

not to apply
to gold

(a) any gold belonging to, or in the possession, custody or control of, Government or the Reserve Bank of India.

belonging
to Gov-
ernment
or the
Reserve
Bank.

(b) any melting, assaying, refining, alloying or extracting of gold done by Government in any refinery owned or occupied by

Bank.

it, for the purpose of making or manufacturing primary gold for its own use or for the use of the Reserve Bank of India.

CHAPTER II

ADMINISTRATOR AND GOLD CONTROL OFFICERS

Appoint-
ment and
functions of
Administrator and
Gold
Control
Officers.

4. (1) The Central Government shall, by notification, appoint an Administrator for carrying out the purposes of this Act.

(2) The Central Government may, by notification, appoint as many persons as it thinks fit to be Gold Control Officers for the purpose of enforcing the provisions of this Act.

(3) The Administrator shall discharge his functions subject to the general control and directions of the Central Government.

(4) The Administrator may authorise such person as he thinks fit to also exercise all or any of the powers exercisable by him under this act and different persons may be authorised to exercise different powers.

(5) Subject to any general or special direction given or condition imposed by the Administrator, any person authorised by the Administrator to exercise any powers may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by way of authorisation.

(6) The Administrator may also—

- (a) perform all or any of the functions of, and
- (b) exercise all or any of the powers conferred by this Act or any rule or order made thereunder on, any officer lower in rank than himself.

(7) A Gold Control Officer shall, subject to such limitations, restrictions and conditions as the Central Government may think fit to impose, exercise such powers and discharge such functions as are specified or conferred, as the case may be, by or under this Act.

Power of
Administrator
to issue
directions
and
orders.

5. (1) The Administrator may, if he thinks fit, make orders, not inconsistent with the provisions of this Act, for carrying out the provisions of this Act.

(2) The Administrator may, so far as it appears to him to be necessary or expedient for carrying out the provisions of this Act, by order—

- (a) regulate, after consultation with the Reserve Bank of India, the price at which any gold may be bought or sold, and

(b) regulate by licences, permits or otherwise, the manufacture, distribution, transport, acquisition, possession, transfer, disposal, use or consumption of gold.

6. (1) The Administrator may, if he is of opinion that it is necessary in the public interest so to do, require any person who lends or advances money on the hypothecation, pledge, mortgage or charge of any article or ornament to make to him, in such form and within such time as may be specified, a return as to the receipt, delivery or sale of such article or ornament and as to the persons from whom they were received or, as the case may be, to whom they were delivered or sold.

(2) The Administrator may, by order, authorise any Gold Control Officer to examine the accounts relating to the receipt, delivery or sale of any gold, of any person who advances any money on the hypothecation, pledge, mortgage or charge of any article or ornament, and if any gold is found in the possession of such person which is not entered in such accounts or which is in excess of the quantity shown in such accounts, and which is not otherwise accounted for to the satisfaction of such officer, such gold shall be deemed to be in the possession of such person in contravention of the provisions of this Act.

Power of
Administrator
to call
for re-
turns
as to
receipt
or sale of
hypothe-
cated
gold.

45 of 1860.

7. The Administrator, a Gold Control Officer, and any person authorised by the Administrator or the Central Government and performing any functions under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Adminis-
trator,
etc., to be
public
servants.

* * * * *

CHAPTER III

RESTRICTIONS RELATING TO THE MANUFACTURE, ACQUISITION, POSSESSION, SALE, TRANSFER OR DELIVERY OF GOLD

8. (1) Save as otherwise provided in this Act, no person shall—

- (i) own or have in his possession, custody or control, or
- (ii) acquire or agree to acquire the ownership, possession, custody or control of, or

Restric-
tions
regarding
acquir-
tion,
possession
and
disposal
of gold

(iii) buy, accept or otherwise receive or agree to buy, accept or otherwise receive,
any primary gold.

(2) A person—

(a) may, subject to the provisions of section 16,—

(i) acquire or agree to acquire the ownership, possession,
custody or control of, or

(ii) buy, accept or otherwise receive or agree to buy,
accept or otherwise receive, or

(iii) sell, deliver, transfer or otherwise dispose of,
any ornament which is not required to be included in a
declaration;

(b) shall not,—

(i) acquire or agree to acquire the ownership, posses-
sion, custody or control of, or

(ii) buy, accept or otherwise receive, or agree to buy,
accept, buy or otherwise receive, or

(iii) sell, deliver, transfer or otherwise dispose of, or
agree to sell, deliver, transfer or otherwise dispose of,

any ornament which is required to be included in a declaration
unless such ornament has been included in a declaration which
has been duly made by the person who intends to sell, deliver,
transfer or otherwise dispose of such ornament.

(3) Save as otherwise provided in this Act, no person shall—

(a) acquire, or agree to acquire, the ownership, possession,
custody or control of, or

(b) buy, accept or otherwise receive, or agree to buy, accept
or otherwise receive,

any article, except by succession, intestate or testamentary.

(4) Save as otherwise provided in this Act, no person shall sell,
deliver, transfer or otherwise dispose of, or agree to sell, deliver,
transfer or otherwise dispose of, any article to a person who is not
a licensed dealer or refiner:

Provided that a person may deliver an article to a certified gold-
smith for the purpose of repairing or polishing or for the purpose
of getting one or more ornaments made, manufactured or prepared
therefrom:

Provided further that no such sale, delivery, transfer or disposal
of any article shall be made—

(i) where such article is required to be included in a
declaration unless such article has been included in a declaration

which has been duly made by the person who intends to sell, deliver, transfer or otherwise dispose of the same, or

(ii) where such article is not required to be included in a declaration, unless the sale, delivery, transfer or disposal thereof has been authorised by the Administrator.

(5) Notwithstanding anything contained in sub-sections (3) and (4), a person may accept or transfer, by way of gift or exchange, gold coins, not exceeding five in number, if, together with the gold coins received by way of gift or exchange, the total holding of gold coins of the donee or transferee, as the case may be, does not exceed fifty grammes.

(6) Notwithstanding anything contained in this section, the Administrator may, if he is of opinion that the special circumstances of any case or class of cases so require, authorise any person or class of persons to buy or otherwise acquire, accept, or otherwise receive, or sell, deliver, transfer or otherwise dispose of, any primary gold or article.

9. (1) Every person who acquires gold under any authorisation made by the Administrator shall observe such conditions and be subject to such restrictions as may be specified therein and shall furnish to the Administrator an account of such gold, if so required by the Administrator.

(2) No person receiving, accepting, buying or otherwise acquiring gold in accordance with any authorisation made by the Administrator shall—

(i) sell, deliver, transfer or otherwise dispose of, or agree to sell, deliver, transfer or otherwise dispose of, or

(ii) expose or offer for sale, delivery, transfer, or disposal of, of such gold, except in accordance with such authorisation.

10. No person shall obtain from any other person any loan or advance on the hypothecation, pledge, mortgage or charge of—

(a) any primary gold, or

(b) any article or ornament which is required to be included in a declaration unless such article or ornament has been so included:

Provided that, in the case of an article which is not required to be included in a declaration, no transfer or delivery thereof shall be made unless such transfer or delivery has been intimated in writing to the Administrator.

Prohibition
regarding
making,
manufacturing,
etc., of
primary
gold,
articles,
ornaments,
etc.

11. (1) Save as otherwise provided in this Act, no person shall—
 - (a) make, manufacture, prepare or process, any primary gold, or
 - (b) make, manufacture, prepare, repair, polish or process, any ornament, or
 - (c) make, manufacture, prepare, repair, polish or process, any article, or
 - (d) make, manufacture or prepare anything containing gold of any purity, whether such purity exceeds nine carats or not, or
 - (e) melt, assay, refine, alloy or extract gold of any purity, whether such purity exceeds nine carats or not, or subject such gold to any other process,

unless he is authorised so to do by the Administrator.

Explanation.—Nothing contained in this sub-section shall apply to the polishing by any person, in his dwelling house, of any article, or ornament, or both, belonging to himself or to any other member of his family.

(2) Every authorisation made under sub-section (1) shall be subject to such conditions (including conditions as to the payment of any fee or charges of supervision) and restrictions as may be specified therein.

CHAPTER IV

POSSESSION OF GOLD BY PUBLIC RELIGIOUS INSTITUTIONS

Ban on pos-
session
of primary
gold
when not
to apply to
primary
gold
which
forms a
part of
structure,
etc., of
public
religious
institutions.

12. Nothing in clause (i) of sub-section (1) of section 8 shall apply to any primary gold which forms part of any structure or any other construction or appendage within the precincts of a temple, church, mosque, gurdwara or any other place of public religious worship if such primary gold has been included in a declaration.

13. Notwithstanding anything contained in this Act, a public religious institution may receive gold as offerings:

Disposal
of gold
received
as offer-
ings.

Provided that—

(a) where any article is received by such institution, as an offering such article may be—

(i) kept by such institution for its use, or

(ii) sold to a licensed dealer or refiner, or

(iii) converted into ornaments for the deity or idol, or

(iv) converted, with the previous permission of the Administrator, into any new article which may be required for worship in the institution or for use in, or decoration of, the structure or other construction or appendage within the precincts of the institution;

(b) where any primary gold is received by such institution, as an offering, the institution shall dispose of such primary gold by—

(i) converting the same, with the previous permission of the Administrator, into ornaments for the deity or idol, or into new articles which may be required for worship in the institution or for use in, or decoration of, the structure or other construction or appendage within the precincts of the institution, or

(ii) selling the same to such licensed dealer or refiner as may be specified, and under such conditions, limitations and restrictions as may be imposed, by the Administrator.

14. Without prejudice to the provisions of Chapter V, every public religious institution shall submit, in such form and in such manner as may be prescribed, to the Administrator monthly accounts of gold received by it as offerings and disposed of by it.

Submis-
sion of
monthly
accounts.

15. The person in charge of the management of any public religious institution shall be responsible for anything done or omitted to be done by such institution in relation to any gold.

Respon-
sibility of
the per-
son in
charge
of public
religious
insti-
tution.

CHAPTER V

DECLARATIONS

16. (1) Save as otherwise provided in this Chapter, every person who owns, or is in possession, custody or control of, any article or ornament at the commencement of this Act, or acquires the ownership, possession, custody or control of any article or ornament there-

Declar-
tions as to
articles
or orna-
ments.

after, shall make, within thirty days from such commencement or from such acquisition, as the case may be, or within such further period as the Administrator may, on sufficient cause being shown allow, a declaration in the prescribed form as to the quantity, description and other prescribed particulars of any article, or ornament, or both, owned, possessed, held or controlled by him:

Provided that no such declaration shall be required to be made where a person who, having owned, possessed, held or controlled any article or ornament before the commencement of this Act, has already made a declaration in relation to that article, or ornament, or both:

Provided further that nothing in this sub-section shall be construed as enabling any declaration to be made in respect of any gold for which the period prescribed or allowed under the law for the time being in force before the commencement of this Act had expired before such commencement.

(2) For the removal of doubts, it is hereby declared that the declaration referred to in this section shall be made, in relation to any article, or ornament, or both,—

(a) owned by minor or a lunatic, by the guardian or manager of such minor or lunatic, as the case may be;

(b) owned by an idol or a deity, by the manager of such idol or deity, whether known as shebaif or manager or by any other name;

(c) owned, possessed, held or controlled by a person whose properties are under the management of any administrator or receiver, by such administrator or receiver;

(d) owned, possessed, held or controlled by a person whose properties are under the management of a Court of Wards, by the manager of such Court;

(e) vested in an executor or an administrator of a will or other testamentary disposition, by such executor or administrator;

(f) owned, possessed, held or controlled by the members of a firm, by any partner of such firm;

(g) owned, possessed, held or controlled by a Hindu undivided family, by the head or karta of such family;

(h) which is the subject-matter of any public or private trust, by the trustee of such trust;

(i) owned, possessed, held or controlled by a company, whether incorporated in or outside India, by any person in charge of the management of the affairs of such company;

(j) belonging to a temple, church, mosque, gurdwara or any other religious institution by the person in charge of the management of such temple, church, mosque, gurdwara or other religious institution;

(k) which is wakf property, by the mutawalli of such wakf;

(l) owned, possessed, held or controlled by any society, club or other association, by the secretary or manager of such society, club or other association;

(m) owned, possessed, held or controlled by any other person, by such person as may be prescribed.

(3) If any person who did not own, possess, hold or control, before the commencement of this Act, any quantity of gold in excess of the quantities specified in sub-section (5), acquires, after such commencement, the ownership (whether by succession, intestate or testamentary, or otherwise), possession, custody or control of any gold and if, as a result of such acquisition, the total quantity of gold owned, possessed, held or controlled by such person exceeds the quantities specified in sub-section (5), such person shall, within thirty days from the date of such acquisition or within such further period as the Administrator may, on sufficient cause being shown allow, make a declaration in the prescribed form stating the total quantity, description and other prescribed particulars of—

(a) the gold owned, possessed, held or controlled by him immediately after such acquisition, and

(b) the person from whom the ownership, possession, custody or control of such gold was acquired.

(4) If any person who has made a declaration, whether under sub-section (1) or under sub-section (3) or under Part XIIA of the Defence of India Rules, 1962, or under the Gold (Control) Ordinance, 1968, as to gold owned, possessed, held or controlled by him, acquires (whether by succession, intestate or testamentary, or otherwise), or parts with, after such declaration, the ownership, possession, custody or control of any quantity of gold, he shall, as often as he acquires or parts with the ownership, possession, custody or control of any quantity of gold, make, within thirty days from the date of such acquisition or parting with, or within such further period as the Administrator may, on sufficient cause being shown, allow, a further declaration in the prescribed form stating the quantity, description and other prescribed particulars of the gold in relation to which such ownership, possession, custody or control has been acquired or parted with by him and giving the prescribed particulars of the person from whom the ownership, possession, custody or control of such gold was

acquired or in whose favour the ownership, possession, custody or control of such gold was parted with, as the case may be.

(5) No declaration referred to in sub-section (1) or sub-section (3) shall be required to be made,—

(a) in relation to articles, unless the total weight of articles owned, possessed, held or controlled by,—

(i) a minor, who is not a member of a family, exceeds twenty grammes,

(ii) an individual (other than a minor), who is not a member of a family, exceeds fifty grammes,

(iii) a family, exceeds fifty grammes,

(iv) any person referred to in clauses (b) to (f) and (h) to (m) of sub-section (2), exceeds fifty grammes;

(b) in relation to any ornaments, or both articles and ornaments, where both articles and ornaments are owned, possessed, held or controlled, unless the total weight of such ornaments or both articles and ornaments, as the case may be, owned, possessed, held or controlled by,—

(i) a minor, who is not a member of a family, exceeds eight hundred grammes,

(ii) an individual (other than a minor) who is not a member of a family, exceeds two thousand grammes,

(iii) a family, exceeds four thousand grammes;

* * * * *

(c) in relation to any ornaments, or both articles and ornaments, owned, possessed, held or controlled by any person referred to in clauses (b) to (f) and (h) to (m) of sub-section (2), unless the total weight of such ornaments, or both articles and ornaments, exceeds two thousand grammes.

(6) For the purposes of this section, "family" shall be deemed to consist of—

(i) the husband, wife and one or more minor children, or

(ii) any two or more of them,

but shall not be deemed to include any other person.

(7) Every licensed dealer or refiner shall make a declaration or further declaration, as the case may be, in accordance with the provisions of this section in relation to any gold owned, possessed, held or controlled by him in any capacity other than the capacity of a licensed dealer or refiner and the provisions of sub-section (5) shall not apply to such gold.

Explanation.—Where the licensed dealer or refiner is a company or other body corporate or a firm, every director of such company or body corporate or, as the case may be, every partner of such firm, shall make a declaration in respect of the gold owned, possessed, held or controlled by him in any capacity.

(8) Every declaration made under this section shall be made in triplicate, of which one copy shall be authenticated and signed by the Gold Control Officer and thereafter shall be returned to the person making the declaration and the copy so returned shall be retained by such person as evidence of the declaration made by him under this section.

(9) Every declaration made under this section shall be kept by the Gold Control Officer in safe custody and the particulars thereof shall be entered in a register to be maintained for this purpose.

(10) A person who has made a declaration shall, as often as he acquires or parts with, after such declaration the ownership, possession, custody or control of any quantity of gold, endorse, within thirty days from the date of such acquisition, or parting with, of gold, in such manner as may be prescribed, on the copy of the declaration retained by him, and shall also produce such copy, within seven days from the date of such endorsement, before the Gold Control Officer, who shall make necessary changes in the register referred to in sub-section (9) and also in the copy of the declaration kept in his safe custody.

(11) No person shall own or have in his possession, custody or control any quantity of gold which is required to be included in a declaration unless such gold has been included in a declaration or further declaration, as the case may be:

Provided that nothing in this sub-section shall apply until the expiry of the period within which a person is entitled to make a declaration or further declaration.

(12) A person upon whom a penalty has been imposed or whose gold has been confiscated under the provisions of Chapter XIII for failure to make a declaration shall, if so directed by the authority adjudging the penalty or confiscation, make a declaration within such time as may be specified in the direction.

(13) Where the period prescribed or allowed under the law in force immediately before the commencement of this Act, for any declaration to be made in respect of any gold, had not expired before such commencement, the declaration may be made within the period prescribed or allowed under such law.

CHAPTER VI

REFINERS

Licensing of refiners.

17. (1) Save as otherwise provided in this Act, no person shall either establish a refinery or carry on business as a refiner unless he holds a valid licence issued in this behalf by the Administrator.

(2) A licence issued under this section,—

(a) shall be in such form as may be prescribed,

(b) shall be valid for such period as may be specified therein.

(c) may be renewed, from time to time, and

(d) may contain such conditions, limitations and restrictions as the Administrator may think fit to impose and different conditions, limitations and restrictions may be imposed for different classes of refiners.

(3) Every licence issued under Part XIA of the Defence of India Rules, 1962, or under the Gold (Control) Ordinance, 1968, authorising the establishment of a refinery or carrying on of business as a refiner, shall, if in force immediately before the commencement of this Act, continue to be in force until the expiry of the period of its validity or until the cancellation thereof, whichever is earlier.

(4) A person who holds, at the commencement of this Act, a valid licence authorising him to establish a refinery or to carry on business as a refiner shall, if he intends to continue such business after the expiry of the period of its validity, make, at least one month before the expiry of such period, an application (in such form

and on payment of such fees, not exceeding one hundred rupees, as may be prescribed) for the renewal of such licence.

(5) A person who intends to establish or commence, after the commencement of this Act, a refinery or business as a refiner, shall make an application (in such form and on payment of such fees, not exceeding one hundred rupees, as may be prescribed) for the issue of a licence.

(6) On receipt of an application for the issue or renewal of a licence under this section, the Administrator may, after making such inquiry, if any, as he may consider necessary, by order in writing, either issue or renew the licence, or reject the application for the same:

Provided that no licence shall be issued or renewed under this section unless the Administrator, having regard to the following matters, is satisfied that the licence should be issued or renewed, namely:—

(a) the number of refineries existing in the region in which the applicant intends to carry on business as a refiner,

(b) the anticipated demand, as estimated by him for refining facilities in that region,

(c) the facilities existing in that region for the assay of gold by any method other than the touch-stone method,

(d) the turnover of the applicant, if he is already carrying on business as a refiner, during two years immediately preceding the date of application for the renewal of the licence,

(e) the suitability and security of the premises where the applicant intends to carry on business as refiner, and the existence therein of arrangements for the storage of gold before and after refining,

(f) the existence or the probability of existence in the refinery or the proposed refinery, as the case may be, of equipment for the manufacture of standard gold bars and the quality and adequacy of such equipment,

(g) the competence of the applicant to manufacture standard gold bars,

(h) the existence of facilities in the refinery for the exercise of supervision and control by the Administrator, or any other person authorised by him in this behalf,

(i) the existence of any refinery established or run by Government,

- (j) the suitability of the applicant,
- (k) the public interest, and
- (l) such other matters as may be prescribed.

(7) Any person to whom a licence has been issued or renewed under this section shall comply with the provisions of every law, rule, regulation or bye-law for the time being in force relating to refineries.

(8) A person to whom a licence to carry on business as a refiner is issued under this section shall not carry on business as such refiner in the same premises in which he or any other person carries on business, whether as a dealer or otherwise or as a money-lender or banker who lends or advances money on the hypothecation, pledge, mortgage or charge of any gold.

(9) Every licensed refiner shall ensure that every person employed by him in the refinery complies, in the course of such employment, with the provisions of this Act or any rule or order made thereunder and of any other law relating to gold or foreign exchange for the time being in force.

Refiner to make standard gold bars only. 18. (1) A licensed refiner may make or manufacture standard gold bars but shall not, unless authorised by the Administrator so to do, make, manufacture or prepare primary gold in any other form:

Provided that such refiner may, in the process of manufacturing standard gold bars, make, manufacture or prepare primary gold.

(2) Unless authorised by the Administrator so to do, a licensed refiner shall not make, manufacture, prepare, repair or polish any article or ornament.

Standard gold bar to be stamped. 19. (1) Every licensed refiner, who makes, manufactures or prepares standard gold bars shall put a stamp on each such gold bar certifying its purity and such stamp shall also contain such other particulars as may be prescribed.

(2) No stamp referred to in sub-section (1) shall be used in stamping any standard gold bar unless such stamp has been approved by the Administrator.

Acquisition of gold by a refiner. 20. Subject to the provisions of section 8, a licensed refiner may buy or otherwise acquire or accept or otherwise receive primary gold, article or ornament from a person for the purpose of refining such gold for making, manufacturing or preparing standard gold bars therefrom.

21. Save as otherwise provided in this Act, no licensed refiner shall sell, deliver, transfer or otherwise dispose of gold in any form, other than in the form of standard gold bars and no such sale, delivery, transfer or disposal shall be made to any person other than a licensed dealer or refiner or certified goldsmith:

Provided that a licensed refiner may sell standard gold bars to any person on production by that person of a permit granted by the Administrator in this behalf or to such other person as the Administrator may authorise in this behalf.

22. A licensed refiner shall not—

- (i) buy or otherwise acquire or accept or otherwise receive, or
- (ii) melt, assay, refine, alloy or extract gold or subject it to any other process, or
- (iii) sell, deliver, transfer or otherwise dispose of, any gold, except under such conditions, limitations and restrictions as may be prescribed.

23. Except in the case of any quantity of gold acquired, accepted, bought or received after the date of making of any return referred to in section 56, no licensed refiner shall, in his capacity as such refiner, either own or have in his possession, custody or control any gold which has not been included in such return:

Provided that any gold acquired, accepted, bought or received after the date of making such return shall be included in the next succeeding return.

24. Save as otherwise provided in this Act, no licensed refiner shall keep in his refinery any primary gold, article or ornament which is not a part of his stock-in-trade or held by him in his capacity as a refiner and every primary gold, ornament or article found in such refinery shall be deemed to be a part of his stock-in-trade or held by him in his capacity as a refiner.

25. If a refiner carries on in the same premises, the business of refining silver or other metal, he shall carry on the business of refining gold in such part of the premises and under such conditions, limitations and restrictions as may be specified by the Administrator.

Silver
refiner
to keep
record
of gold
recovered
from
such
refining.

- 26.** Every person who refines or melts silver, including its alloys, shall—
 (a) maintain a record of gold, if any, recovered from such refining or melting;
 (b) declare on or before the fifth day of each month, in such form as may be prescribed, the quantity of gold so recovered during the month immediately preceding;
 (c) sell such gold within a period of thirty days from the date of such declaration or within such further period as, on sufficient cause being shown, may be allowed by the Administrator, to a licensed refiner or, if so authorised by the Administrator, to a licensed dealer.

CHAPTER VII

DEALERS

Licensing
of
dealers.

27. (1) Save as otherwise provided in this Act, no person shall commence, or carry on, business as a dealer unless he holds a valid licence issued in this behalf by the Administrator.

- (2) A licence issued under this section,—
 (a) shall be in such form as may be prescribed.
 (b) shall be valid for such period as may be specified therein,
 (c) may be renewed, from time to time, and
 (d) may contain such conditions, limitations and restrictions as the Administrator may think fit to impose and different conditions, limitations and restrictions may be imposed for different classes of dealers.
- (3) Every licence issued under Part XIIA of the Defence of India Rules, 1962, or under the Gold (Control) Ordinance, 1968, authorising the commencement or carrying on of business as a dealer, shall, if in force immediately before the commencement of this Act, continue to be in force until the expiry of the period of its validity or until the cancellation thereof, whichever is earlier.

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(4) A person who holds, at the commencement of this Act, a valid licence authorising him to commence or to carry on business as a dealer shall, if he intends to continue such business after the expiry of the period of its validity, make, at least one month before the expiry of such period, an application (in such form and on payment of such fees, not exceeding one hundred rupees, as may be prescribed) for the renewal of such licence.

(5) A person who intends to commence, after the commencement of this Act, business as a dealer, shall make an application

(in such form and on payment of such fees, not exceeding one hundred rupees, as may be prescribed) for the issue of a licence.

(6) On receipt of an application for the issue or renewal of a licence under this section, the Administrator may, after making such inquiry, if any, as he may consider necessary, by order in writing, either issue or renew the licence, or reject the application for the same:

Provided that no licence shall be issued or renewed under this section unless the Administrator, having regard to the following matters, is satisfied that the licence should be issued or renewed, namely:—

- (a) the number of dealers existing in the region in which the applicant intends to carry on business as a dealer,
- (b) the anticipated demand, as estimated by him, for ornaments in that region,
- (c) the turnover of the applicant, if he had been carrying on business as a dealer prior to the commencement of Part XIIA of the Defence of India Rules, 1962, during the two years immediately preceding such commencement, or, in the case of an application for the renewal of a licence, the date of the application for such renewal,
- (d) the previous experience, if any, of the applicant with regard to the making, manufacturing, preparing, repairing or polishing of, or dealing in, ornaments, ,
- (e) the suitability of the applicant,
- (f) the suitability of the premises where the applicant intends to carry on business as a dealer,
- (g) the public interest, and
- (h) such other matters as may be prescribed.

(7) (a) The Administrator shall specify, in each licence granted to a dealer, the premises in which such dealer shall carry on business and no other person shall carry on business as a dealer in the said premises.

(b) A licensed dealer shall not carry on business as such dealer in any premises other than the premises specified in his licence.

(8) Every licensed dealer shall ensure that every artisan or other person employed by him complies, in the course of such employment, with the provisions of this Act or any rule or order made thereunder and of any other law relating to gold or foreign exchange for the time being in force.

Money-lending business not to be carried on in licensed premises.

What a dealer may manufacture.

Ornament, etc., to be stamped.

Acquisition of gold by a dealer.

28. No licensed dealer shall, unless authorised by the Administrator so to do,—

(a) carry on business as a money-lender or banker on the security of any article, or ornament, or both,

(b) permit any other person to carry on money-lending, banking or any other business,

in the same premises in which he carries on business as such dealer.

29. Subject to the other provisions of this Act, a licensed dealer may make, manufacture, prepare, repair, polish or process ornaments and may also repair or polish articles but shall not, unless authorised by the Administrator so to do, make, manufacture or prepare any primary gold or article:

Provided that such dealer may, in the process of making, manufacturing, preparing or repairing ornaments, make, manufacture or prepare primary gold (other than standard gold bar) by melting, processing or converting any article, ornament or standard gold bar acquired, accepted or received by him in accordance with the provisions of Part XIIA of the Defence of India Rules, 1962, or, as the case may be, the Gold (Control) Ordinance, 1968 or of this Act.

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30. (1) Every licensed dealer shall stamp every piece of article or ornament made, manufactured or prepared by him certifying the purity of the gold:

Provided that nothing in this section shall apply to any article or ornament on which, owing to its nature or the smallness of its size, it is not possible to put such a stamp.

(2) Every stamp referred to in sub-section (1) shall also contain such other particulars as may be prescribed.

31. Save as otherwise provided in this Act no licensed dealer shall buy or otherwise acquire or agree to buy or otherwise acquire or accept or otherwise receive or agree to accept or otherwise receive any article, ornament or primary gold from a person who is not a licensed dealer or refiner:

Provided that any such dealer may buy or otherwise acquire or accept or otherwise receive or agree to buy or otherwise acquire or accept or otherwise receive from a person who is not a licensed dealer or refiner,—

(i) any ornament which is not required to be included in a declaration or any ornament which, being required to be included in a declaration, has been so included,

(ii) any article which, being required to be included in a declaration has been so included, or where such article is not

required to be included in a declaration, if the sale, delivery, transfer or disposal of such article has been authorised by the Administrator,

(iii) any primary gold, if the person selling, delivering, transferring, or otherwise disposing of the same has been authorised so to do by the Administrator:

Provided further that where any such dealer has delivered any article, ornament or primary gold to his artisan or a certified goldsmith, for the purpose of making, manufacturing, preparing, repairing or polishing any ornament, he may, after such ornament has been made, manufactured, prepared, repaired or polished, take back such ornament from the artisan or certified goldsmith, as the case may be.

32. Save as otherwise provided in this Act, no licensed dealer shall either own or have at any time in his possession, custody or control primary gold in any form except in the form of standard gold bars: Possession of primary gold by a licensed dealer.

Provided that such dealer may, unless the Central Government (having regard to the needs of the trade, volume of business and public interest) otherwise directs, own or keep in his possession, custody or control not more than—

(a) four hundred grammes, if he does not employ any artisan,

(b) five hundred grammes, if he employs not more than ten artisans,

(c) one thousand grammes, if he employs more than ten but not more than twenty artisans,

(d) two thousand grammes, if he employs more than twenty artisans,

of primary gold in any form other than in the form of standard gold bars.

33. No licensed dealer shall keep in the premises where he carries on business as such dealer any primary gold, article or ornament which is not a part of his stock-in-trade or held by him in his capacity as a dealer and every primary gold, ornament or article found in such premises shall be deemed to be a part of the stock-in-trade of such dealer or held by him in his capacity as a dealer.

Gold which is not a part of the stock-in-trade, not to be kept in the business premises of a dealer.

Sale or
delivery
of gold by
a licensed
dealer
or certi-
fied gold-
smith.

34. (1) A licensed dealer may sell, deliver, transfer or otherwise dispose of or agree to sell, deliver, transfer or otherwise dispose of ornaments to any person.

(2) Save as otherwise provided in this Act, no licensed dealer shall—

(a) sell, deliver, transfer or otherwise dispose of or agree to sell, deliver, transfer or otherwise dispose of, or

(b) expose or offer for sale, delivery, transfer or disposal—

(i) primary gold to any person other than a licensed dealer or refiner or certified goldsmith,

(ii) any article to any person other than a licensed dealer or refiner:

Provided that a licensed dealer shall not sell or transfer primary gold to any other licensed dealer or to any certified goldsmith in any form except in the form of standard gold bars.

(3) Notwithstanding anything contained in sub-section (2), a licensed dealer may sell or deliver primary gold or article to any person in pursuance of an authorisation made by the Administrator or on production by that person of a permit granted by the Administrator in this behalf.

Section 34
not
to apply
to the
transfer of
gold to a
certified
goldsmith
or to an
artisan.

Acquisi-
tion, sale,
etc., of
gold to be
subject to
conditions.
Licensed
dealers
may take
assistance
of special-
ists.

35. Nothing contained in section 34 shall apply to the transfer or delivery, by a licensed dealer, of any primary gold or article to any certified goldsmith or artisan for the purpose of getting any ornaments made, manufactured, prepared, repaired or polished by such certified goldsmith or artisan.

36. Every acquisition, acceptance, sale, delivery, transfer or disposal of gold by a licensed dealer shall be made in accordance with such conditions, limitations and restrictions as may be prescribed in this behalf.

37. A licensed dealer may, in the course, and for the purpose, of manufacturing ornaments, send gold to any other dealer who possesses equipment for drawing wires or for die-casting or who is a specialist in stone-setting, engraving, enamelling, polishing or any other special process necessary for or ancillary to, the making, manufacturing, preparing, repairing or polishing of such ornament and that other dealer shall return such gold to the licensed dealer from whom he had received it after the completion of the process for which it was sent to him.

38. Except in the case of any quantity of gold acquired, accepted or received after the date of making of any return referred to in section 56, no licensed dealer shall, in his capacity as such dealer, either own or have in his possession, custody or control any gold which has not been included in such return:

Provided that any gold acquired, accepted or received after the date of making such return shall be included in the next succeeding return.

Prohibition regarding possession of gold not included in any return.

CHAPTER VIII

CERTIFIED GOLDSMITHS

39. (1) Save as otherwise provided in this Act, no person shall commence, or carry on, business as a goldsmith after the commencement of this Act, unless he holds a valid certificate recognizing him as a goldsmith.

Certified goldsmiths.

(2) The certificate referred to in sub-section (1)—

(a) shall be in such form as may be prescribed,

(b) shall be valid until the death of the holder, or the cancellation, thereof, whichever is earlier, and

(c) may contain such conditions, limitations and restrictions, as the Administrator may think fit to impose and different conditions, limitations and restrictions may be imposed for different classes of certified goldsmiths.

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(3) Every certificate granted to a person under Part XIIA of the Defence of India Rules, 1962, or under the Gold (Control) Ordinance, 1968, recognizing him as a goldsmith, shall, if in force immediately before the commencement of this Act, continue to be in force until the death of the holder, or the cancellation, thereof, whichever is earlier.

(4) On and from the commencement of this Act, the following classes of persons shall be eligible to apply for the grant of a certificate, namely:—

(a) a person who, at the commencement of this Act, is a member of the family of a certified goldsmith and had been assisting him in his work as a goldsmith for not less than one year;

(b) a person who has received any loan from the Government under any scheme for the rehabilitation of goldsmiths and has made, within six months from the commencement of this Act, an application for the grant of a certificate;

Provided that a certificate granted to such person shall be cancelled unless he repays the loan, within a period of two years from the date of the grant of such certificate, in such instalments as the authority by which the loan was granted may specify in this behalf;

(c) an artisan if he surrenders his identity card as an artisan;

(d) a person who belongs to a category or class to which, in the opinion of the Administrator, the certificate may be granted in the public interest.

Explanation.—A person who is engaged as a hired labourer by a certified goldsmith shall not be eligible to receive a certificate under this section.

(5) Every application for the grant * * of a certificate referred to in sub-section (1) shall be made in such form, in such manner and on payment of such fee, not exceeding ten rupees as may be prescribed.

(6) On receipt of an application for the grant of a certificate, the Administrator may, after making such inquiry, if any, as he may consider necessary, as to the antecedents of the applicant, his competence to work as a goldsmith and his suitability for the grant of a certificate, by order, in writing, either grant the certificate or reject the application for the same.

(7) Every certified goldsmith shall have in his possession the certificate granted to him while he carries on business as such goldsmith and shall produce it for inspection on demand by any Gold Control Officer.

(8) A certified goldsmith may engage not more than one hired labourer to assist him in his work as a goldsmith but such hired labourer shall not make, manufacture, prepare, repair or process any article or ornament.

40. A certified goldsmith may make, manufacture, prepare, repair, polish or process ornaments and may also repair or polish articles but shall not, unless authorised by the Administrator so to do, make, manufacture or prepare any primary gold or article:

Provided that, subject to the provisions of section 42, a certified goldsmith may, in the process of making, manufacturing, preparing or repairing ornaments, make, manufacture or prepare primary gold (other than standard gold bar) by melting, processing or converting any article, ornament or standard gold bar acquired, accepted or received by him in accordance with the provisions of Part XIA of the

Defence of India Rules, 1962, or, as the case may be, the Gold (Control) Ordinance, 1968, or of this Act.

41. A certified goldsmith—

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(a) may—

(i) buy standard gold bars from a licensed dealer or refiner,

(ii) accept or otherwise receive any article, ornament or primary gold from a licensed dealer for the purpose of making, manufacturing, preparing, or repairing ornaments for such licensed dealer,

(iii) accept or otherwise receive, subject to the provisions of section 8, from any other person any article or ornament for the purpose of making, manufacturing or preparing ornament for such person or for the purpose of repairing or polishing such article or ornament;

(b) shall not, save as otherwise provided in this Act, buy or agree to buy or sell or agree to sell any primary gold, article or ornament.

42. No certified goldsmith shall either own or have at any time in his possession, custody or control any quantity of—

(i) standard gold bars in excess of one hundred grammes, or

(ii) any quantity of primary gold (including standard gold bars) in excess of three hundred grammes.

43. The provisions of section 37 shall apply so far as may be to a certified goldsmith as they apply to a licensed dealer subject to the modification that every reference thereto to a licensed dealer shall be construed as a reference to a certified goldsmith.

Restrictions on acquisition or sale of gold by a certified goldsmith.

Limit on primary gold

which a certified goldsmith may possess.

Section 37 to apply to certified goldsmiths.

CHAPTER IX

ARTISANS

Artisans.

44. (1) A licensed dealer may employ, whether on a whole-time or part-time basis or on payment of daily wages or other remuneration, an artisan—

(a) who is or was a dealer or a goldsmith or was employed by a dealer for a period of not less than one year immediately preceding the commencement of Part XIIA of the Defence of India Rules, 1962, or at any time thereafter but before the commencement of this Act, or

(b) who is eligible to obtain a certificate recognizing him as a goldsmith.

(2) No person shall be employed by any licensed dealer as an artisan unless an identity card has been given to such artisan by the licensed dealer and no artisan, the countersignature of whose identity card has been refused or whose identity card has been cancelled, shall be employed by a licensed dealer after such refusal or cancellation.

(3) Before employing an artisan, a licensed dealer shall make inquiries as to the antecedents of the artisan and grant him an identity card, in such form and containing such particulars as may be prescribed, and enter the name and the prescribed particulars of such artisan in a register to be maintained in such form as may be prescribed and shall send such identity card within one month from the date of issue thereof to the Gold Control Officer for approval and countersignature.

(4) On receipt of the identity card of an artisan under this Act the Gold Control Officer may, after making such inquiry, if any, as he may consider necessary, either countersign the identity card or if he is of opinion that the applicant is not a suitable person for employment as an artisan, refuse in writing to countersign such identity card.

(5) The Gold Control Officer may, if he is satisfied that the particulars of an artisan, as entered in the register referred to in subsection (3), are incorrect or false in material particulars or that the artisan has contravened any provision of this Act or any rule or order made thereunder or of any other law relating to gold or foreign exchange for the time being in force, cancel the identity card of such artisan:

Provided that no such cancellation shall be made unless the artisan has been given a reasonable opportunity of showing cause against the proposed action.

(6) The identity card—

(a) of an artisan, who is dismissed by the dealer by whom he is employed, or

(b) the countersignature of which has been refused, or

(c) which has been cancelled,

shall be immediately recovered by the licensed dealer by whom the artisan holding such card is employed and such dealer shall immediately recover all the quantity of gold which was in the possession,

custody or control of such artisan on the date of such dismissal, refusal or cancellation, as the case may be.

(7) No licensed dealer or certified goldsmith shall accept employment as an artisan unless he has, before commencing work as an artisan, surrendered his licence or certificate, as the case may be, to the Gold Control Officer.

Provided that where such licensed dealer or certified goldsmith makes an application to the effect that he intends to resume business as such dealer or goldsmith, the licence or certificate, as the case may be, which was surrendered by him may be restored to him and thereupon he shall surrender the identity card which was granted to him under this section:

Provided further that no such restoration shall be made if such dealer or goldsmith has, while functioning as an artisan, contravened and provision of this Act or of any rule or order made thereunder or of any other law, for the time being in force, relating to gold or foreign exchange.

45. Subject to the other provisions of this Act, an artisan may make, manufacture, prepare, repair or polish ornaments, and may also repair or polish an article, for the dealer by whom he is employed, but shall not, unless the dealer by whom he is employed is authorised by the Administrator, so to do, make, manufacture or prepare any primary gold or article: Functions of an artisan.

Provided that such artisan may, in the process of making, manufacturing, preparing or repairing ornaments, make, manufacture or prepare primary gold (other than standard gold bar) by melting, processing or converting any article or ornament or standard gold bar received by him from the licensed dealer by whom he is employed.

46. The total quantity of primary gold in the possession, custody or control, whether individually or collectively, of the artisans employed by a licensed dealer shall not, at any time, exceed the limits specified in section 32. Limits on primary gold which an artisan may have in his possessor.

47. (1) An Artisan may accept article, ornament or primary gold from the licensed dealer by whom he is employed for the purpose of making, manufacturing, preparing, repairing or polishing ornaments for such dealer. Restrictions on the acquisition, possession or disposal of gold by an artisan.

(2) No artisan shall, save as otherwise provided in this Act,—

(i) buy or otherwise acquire or agree to buy or otherwise acquire, or

(ii) accept or otherwise receive or agree to accept or otherwise receive, or

(iii) sell, deliver, transfer or otherwise dispose of or agree to sell, deliver, transfer or otherwise dispose of,

any article, ornament or primary gold.

Artisan
not to
work at
any place
other than
the pre-
mises of
the deal-
er.

Artisans
to carry
identity
cards
with
them.

Cancella-
tion or
suspension
of licence
or certi-
ficate.

48. An artisan shall not work as such at any place other than the premises specified in the licence issued to the dealer by whom he is employed.

49. Every artisan shall have in his possession the identity card granted to him while he carries on work as such artisan and shall produce it for inspection on demand by any Gold Control Officer.

CHAPTER X

CANCELLATION AND SUSPENSION OF LICENCES AND CERTIFICATES

50. (1) The Administrator may, if he has any reasonable cause to believe that the holder of any licence or certificate issued, renewed or continued under this Act has made any statement in, or in relation to, any application for the issue or renewal of a licence or for the issue of a certificate under this Act which is incorrect or false in material particulars or has contravened any provisions of Part XIIA of the Defence of India Rules, 1962, the Gold (Control) Ordinance, 1963, or of this Act ~~6 of 1968~~ or any rule or order made thereunder or of any other law for the time being in force which prohibits, restricts or regulates the bringing into or taking out of India of any goods [including coins, currency (whether Indian or foreign) and foreign exchange] or the carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing such goods or the making of any payment in relation to such goods,—

(i) suspend such licence or certificate, as the case may be, pending the completion of any inquiry or trial against the holder of such licence or certificate, as the case may be, for such contravention, or

(ii) cancel such licence or certificate, as the case may be:

Provided that no such licence or certificate shall be suspended for a period exceeding ten days or cancelled unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

(2) Every person whose licence or certificate has been suspended shall, immediately after such suspension, stop functioning as such licensee or holder of such certificate and shall not resume business as such licensee or holder of such certificate until the order of such suspension has been vacated.

(3) Every person who holds a licence or certificate which is suspended or cancelled shall, immediately after such suspension or cancellation, surrender such licence or certificate, as the case may be, to the authority by which such licence or certificate was issued.

51. A licensed dealer or refiner or a certified goldsmith who discontinues, or intends to discontinue, business as such dealer or refiner or certified goldsmith, may make an application to the Administrator for the cancellation of his licence or certificate, as the case may be, and thereupon the Administrator may cancel the licence or certificate which was issued or renewed to such dealer or refiner or certified goldsmith.

Cancellation of
licence or
certificate
on applica-
tion by
dealer,
refiner or
certified
gold-
smith.

52. Where any firm has been licensed under this Act to carry on business as a dealer or refiner, such licence shall, notwithstanding anything contained in this Act, become invalid on and from the date on which there is a change in the partnership of such firm, unless such change in the partnership has been approved by the Administrator.

Licence to
a firm to
be invalid
if there is
any chang-
in the
partner-
ship of a
firm.

53. Where the period of validity of any licence issued to a dealer or refiner has expired or where any application for the renewal of such licence, has been rejected, or where such licence or a certificate granted to a goldsmith has been cancelled, such dealer, refiner or certified goldsmith, as the case may be, shall, within thirty days from the date of such expiry, rejection or cancellation,—

Disposal
of gold in
the posses-
sion of
licensed
dealers,
refiners
and certi-
fied gold-
smiths in
certain
cases.

(i) sell or otherwise transfer to any other licensed dealer or refiner the entire quantity of gold (other than ornaments) in his possession, custody or control on the date of such expiry, rejection or cancellation, as the case may be, and send intimation thereof to the Administrator; and

(ii) either sell or otherwise transfer or take over as personal property any ornament which is in his possession, custody or control on the said date.

Display of licences. 54. Every licensed dealer and every licensed refiner shall display his licence at a conspicuous place of the premises in which he carries on business as a licensed dealer or refiner.

CHAPTER XI

ACCOUNTS AND RETURNS

Accounts. 55. (1) Every licensed dealer, every licensed refiner and every certified goldsmith shall keep, in such form and in such manner as may be prescribed, a true and complete account of the gold owned, possessed, held, controlled, bought or otherwise acquired, or accepted or otherwise received, or sold, delivered, transferred or otherwise disposed of, by him in his capacity as such licensed dealer or refiner or certified goldsmith, as the case may be, and different forms of accounts may be prescribed for different classes of licensed dealers, refiners or certified goldsmiths.

(2) Every licensed dealer, every licensed refiner and every certified goldsmith shall as and when he buys or otherwise acquires or accepts or otherwise receives, or sells, delivers, transfers or otherwise disposes of, any gold, enter in the accounts referred to in sub-section (1) the prescribed particulars of such gold and the prescribed particulars of the person from whom such gold was bought, acquired, accepted or otherwise received or to whom such gold was sold, delivered, transferred or otherwise disposed of.

(3) No licensed dealer or refiner and no certified goldsmith shall, in his capacity as licensed dealer or refiner, either own or have in his possession, custody or control any gold which has not been included in the accounts referred to in sub-section (1).

Returns as to gold. 56. (1) Every licensed dealer, every licensed refiner and every certified goldsmith shall furnish to the Administrator such returns as to the quantity, description and other prescribed particulars of gold owned, possessed, held or controlled by him, in such form and within such time as may be prescribed and different returns may be prescribed for different classes of licensed dealers or refiners or certified goldsmiths.

(2) Every return shall be made in triplicate of which one copy shall be authenticated and signed by the Gold Control Officer and

thereafter shall be returned to the dealer or, as the case may be, the refiner and the copy so returned shall be retained by the dealer or refiner as the evidence of the return made by him under this section.

57. (1) Every licensed dealer, and every licensed refiner ~~Product-~~
and every certified goldsmith shall, if so required by the Gold Con-
trol Officer,—
tion and
inspec-
tion of

(a) produce before him any accounts, register or other ~~accounts~~
documents, and

(b) furnish to the Gold Control Officer any information relating to any gold owned by him or in his possession, custody or control or to the acceptance, receipt, acquisition, sale, delivery, transfer or other disposal of any gold by him.

(2) Every account, register and other document relating to any gold or to the acceptance, acquisition, receipt, sale, delivery, transfer or other disposal thereof and any gold owned by or in the possession, custody or control of any licensed dealer or refiner or certified goldsmith, wherever kept, shall be liable to be inspected by any Gold Control Officer and such officer may, for the purposes of such inspection, enter, at any reasonable time, the business premises of a licensed dealer or refiner or certified goldsmith.

CHAPTER XII

ENTRY, SEARCH, SEIZURE AND ARREST

58. (1) Any Gold Control Officer authorised in this behalf by the Administrator may, if he has any reason to suspect that any provision of this Act has been, or is being, or is about to be, contravened, enter and search, at any reasonable time, any refinery or the business premises of a licensed dealer or a certified goldsmith.
Power to
enter
and
search.

(2) Any Gold Control Officer, not below the rank of a Superintendent of Central Excise, empowered in this behalf by the Central Government, may, if he has any reason to suspect that any provision of this Act has been, or is being, or is about to be, contravened, authorise any officer of Government to enter and to search any premises, vaults, lockers, or any other place, whether above or below ground, or may himself do so.

59. Any Gold Control Officer authorised in this behalf by the Administrator may, if he has any reason to suspect that any person has secreted about his person or in any other thing,—
Power
to
search
person

(a) any gold in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened;

(b) any document which, in his opinion, will be useful for, or relevant to, any inquiry or proceeding in relation to the contravention of any provision of this Act or of any rule or order made thereunder,

detain and search such person or thing; provided that the period of detention, if any, under this section shall not exceed twenty-four hours.

Conditions under which a search shall be conducted.

60. (1) When any such officer referred to in section 59 is about to search the person referred to in that section, he shall, if such person so requires, take such person without any unnecessary delay, to the nearest Gold Control Officer of gazetted rank (hereafter in this section referred to as the gazetted officer) or to the nearest magistrate.

(2) If such requisition is made, the Gold Control Officer may detain the person making it until he can bring him before the gazetted officer or magistrate referred to in sub-section (1).

(3) The gazetted officer or magistrate before whom any person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.

(4) No female shall be searched by any one excepting a female.

Power to search vehicle, etc.

61. Any Gold Control Officer authorised in this behalf by the Administrator may, if he has any reason to suspect that any conveyance or animal is being, or is about to be, used for the transport of any gold in respect of which he suspects that any provision of this Act has been, or is being, or is about to be, contravened, at any time stop such conveyance or animal, or, in the case of an aircraft, compel it to land, and

(a) rummage and search the conveyance or part thereof;

(b) examine and search any goods in the conveyance or on the animal;

(c) if it becomes necessary to stop any conveyance or animal, he may use all lawful means for stopping it, and where such means fail, the conveyance or animal may be fired upon.

Explanation.—Any reference to a conveyance in this Chapter and in Chapters XIII, XIV and XV shall, unless the context otherwise requires, be construed as including a reference to any aircraft, vehicle or vessel.

62. Every person making a search under this Act shall have the power to break open the lock of any door, almirah, safe, box, cupboard, drawer, package or any other thing, if the key thereof is withheld.

Power
to search
to include
power
to break
open
locks,
etc.

63. (1) Any Gold Control Officer of a gazetted rank shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce any document or other thing in any inquiry which such officer is making in connection with any contravention of any provision of this Act.

Power to
summon
persons
to give
evidence
and
produce
docu-
ments.

(2) A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description, in the possession, custody or control of the person summoned.

(3) All persons so summoned shall be bound to attend in person and to state the truth upon any subject respecting which they are summoned and produce such documents and other things as may be required:

Provided that where any person has been summoned merely to produce a document or other thing, he shall be deemed to have complied with the summons if he causes such document or other thing to be produced instead of attending personally to produce the same:

Provided further that the exemption under section 132 of the 5 of 1908. Code of Civil Procedure 1908, shall be applicable to any requisition for attendance under this section.

(4) Every such inquiry as aforesaid shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of 45 of 1860. the Indian Penal Code

64. Any Gold Control Officer may, during the course of any inquiry in connection with the contravention of any provision of this Act.—

Power
to call
for
informa-
tion, etc.

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful for, or relevant to, the inquiry;

(c) examine any person acquainted with the facts and circumstances of the case.

**Power
to
impound
or retain
documents.**

65. Any document or other thing which is produced before any Gold Control Officer, in pursuance of the provisions of section 63 or section, 64 may be impounded or retained in his custody by such officer for such period as he may consider necessary:

Provided that no document or other thing shall be—

(a) impounded without recording reasons for so doing, or

(b) retained in the custody of such officer for a period exceeding fifteen days (exclusive of holidays) unless he has obtained the approval of an officer (not below the rank of an Assistant Collector of Central Excise or of Customs), who is superior to him in rank, for so doing.

**Power
to seize**

66. (1) If any Gold Control Officer has reason to believe that in respect of any gold any provision of this Act has been, or is being, or is attempted to be, contravened, then, he may seize—

(a) such gold along with the package, covering or receptacle, if any (and the contents thereof), in which the gold is found;

(b) any other goods in which any quantity of such gold has been mixed.

(2) Any Gold Control Officer may seize—

(a) any document or other thing which, in his opinion, will be useful for, or relevant to, any inquiry or proceeding for the contravention of any provision of this Act or any rule or order made thereunder;

(b) any conveyance or animal which has been, or is being, or is attempted to be, used for the transport of any gold in relation to which any provision of this Act or any rule or order made thereunder has been, or is being, or is attempted to be, contravened.

(3) Any document or other thing seized under sub-section (2) shall not be retained by the Gold Control Officer for a period exceeding six months from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Administrator for such retention is obtained;

Provided that the Administrator shall not authorise the retention of the document or other thing for a period exceeding thirty days after all proceedings, for which the document or other thing is useful or relevant, are completed.

(4) The person from whose custody any document or other thing is seized under sub-section (2) may make copies thereof or take extracts therefrom in the presence of the Gold Control Officer or any other person empowered by him in this behalf, at such place and at such time as the Gold Control Officer may appoint in this behalf.

(5) If a person legally entitled to the document or other thing seized under sub-section (2) objects for any reason to the approval being given by the Administrator under sub-section (3), he may make an application to the Central Government stating therein the reasons for such objection and requesting for the return of the document or other thing.

(6) On receipt of the application under sub-section (5), the Central Government may, after giving the applicant an opportunity of being heard, pass such orders as it may think fit.

67. Where any document is produced by any person under this Act or has been seized thereunder from the custody or control of any person and such document is tendered by the prosecution in evidence against him, the court shall, notwithstanding anything to the contrary contained in any other law for the time being in force,—

Presumption
as to
docu-
ments in
certain
cases.

(a) presume, unless the contrary is proved, * * * that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

(b) admit the document in evidence, notwithstanding that it is not duly stamped if such document is otherwise admissible in evidence.

Power
to
arrest.

68. (1) Any Gold Control Officer authorised by the Administrator in this behalf may, if he has reasons to believe that any person has contravened, or is contravening, or is about to contravene any provision of this Act, arrest such person and shall as soon as possible inform him of the grounds for such arrest and shall take such arrested person to the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

(2) Any officer who has arrested any person under this section shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer-in-charge of a police station has, and is subject to, under the Code of Criminal Procedure, 1898.

5 of 1898.

5 of 1898.

Provi-
sions of
sections
102 and
103 of
the Code
of Crimi-
nal Proce-
dure to
apply to
search and
seizure.

69. The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898, relating to search and seizure shall, so far as they are applicable, apply in relation to every search made under this Act and to every seizure made in the course of such search.

Power
to record
state-
ments.

70. Where at the time of arrest or seizure under this Act, on the detection of any contravention of any provision of this Act or any rule or order made thereunder, any person makes a statement to the officer making such arrest, seizure or detection, that officer shall record in writing the statement of such person in as nearly as possible the language in which such statement is made and shall on demand by such person furnish him with a copy of the statement.

CHAPTER XIII

CONFISCATION AND PENALTIES

Confi-
cation of
gold.

71. (1) Any gold in respect of which any provision of this Act or any rule or order made thereunder has been, or is being, or is attempted to be, contravened, shall be liable to confiscation.

(2) Any package, covering or receptacle (including its other contents) in which any gold liable to confiscation under sub-section (1) is found shall also be liable to confiscation.

(3) Where any gold liable to confiscation under sub-section (1) is mixed with other goods in such manner that such gold cannot be separated from those other goods, the whole of such goods shall be liable to confiscation.

(4) Any gold which is liable to confiscation under sub-section (1), shall be so liable notwithstanding any change in its form.

72. Any conveyance or animal which has been, or is being, or is attempted to be, used for the transport of gold in relation to which any provision of this Act or any rule or order made thereunder has been, or is being, or is attempted to be, contravened, shall be liable to confiscation unless the owner of the conveyance or animal proves that it was so used or about to be used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use:

**Confisca-
tion of
convey-
ances.**

Provided that where any such conveyance or animal is used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall, notwithstanding the provisions contained in section 73, be given an option to pay in lieu of confiscation of the conveyance or animal, a fine not exceeding the value of the gold in relation to which the provision of this Act or any rule or order made thereunder has been, or is being, or is about to be, contravened.

73. Whenever any confiscation is authorised by this Act, the officer adjudging it may, subject to such conditions as may be specified in the order adjudging the confiscation, give to the owner thereof an option to pay in lieu of confiscation such fine, not exceeding twice the value of the thing in respect of which confiscation is authorised, as the said officer thinks fit.

**Power to
give option
to pay fine
in lieu of
confisca-
tion.**

74. Any person who, in relation to any gold does or omits to do any act which act or omission would render such gold liable to confiscation under this Act, or abets the doing or omission of such an act, or is in charge of the conveyance or animal which is liable to confiscation under this Act, shall be liable to a penalty not exceeding five times the value of the gold or one thousand rupees, whichever is more, whether or not such gold has been confiscated or is available for confiscation.

**Liability
to
penalty.**

**Penal
ties for
contra-
vention,
etc., not
express-
ly men-
tioned.**

75 Any person who contravenes any provision of this Act or any rule or order made thereunder or abets any such contravention or who fails to comply with any provision of this Act, or any rule or order made thereunder shall, where no express penalty is elsewhere provided for such contravention or failure, be liable to such penalty, not exceeding one thousand rupees, for every such contravention, failure or abetment, as the case may be.

**Reference
to gold
to be
construed
as refe-
rence to
gold of
any purity.**

76. Any reference to gold in this Chapter and in Chapters XII, XIV, XV and XVI shall, unless the context otherwise requires, be construed as including a reference to any article or thing made of, or containing, gold of any purity, whether such purity exceeds nine carats or not.

**Confisca-
tion or
penalty
not to
interfere
with
other
punish-
ments.**

77. No confiscation made or penalty imposed under this Act shall prevent the infliction of any other punishment to which the person affected thereby is liable under the provisions of this Act or under any other law.

CHAPTER XIV

ADJUDICATION, APPEAL AND REVISION

**Adjudica-
tion.**

78. Any confiscation may be adjudged or penalty may be imposed under this Act—

(a) without limit, by a Gold Control Officer not below the rank of a Collector of Central Excise or of Customs;

(b) subject to such limits as may be specified in this behalf, by such other Gold Control Officer, not below the rank of a Superintendent of Central Excise, as the Central Government may, by notification, authorise in this behalf.

**Giving
of an
opportu-
nity
to the
owner of
gold, etc.**

79. No order of adjudication of confiscation or penalty shall be made unless the owner of the gold, conveyance, or animal or other person concerned is given a notice in writing—

(i) informing him of the grounds on which it is proposed to confiscate such gold, conveyance or animal or to impose a penalty; and

(ii) giving him a reasonable opportunity of making a representation in writing within such reasonable time as may be specified in the notice against the confiscation or imposition of penalty mentioned therein and, if he so desires, of being heard in the matter:

Provided that the notice and the representation referred to in this section may, at the request of the owner or other person concerned, be oral:

Provided further that where no such notice is given within a period of six months from the date of the seizure of the gold, conveyance or animal or such further period as the Collector of Central Excise or of Customs may allow, such gold, conveyance or animal shall be returned after the expiry of that period to the person from whose possession it was seized.

Explanation.—Where any fresh adjudication is ordered under this Act, the period of six months specified in the second proviso shall be computed from the date on which such order for fresh adjudication is made.

80. (1) Any person aggrieved by any decision or order made under this Act, may prefer an appeal,—

Appeal.

(a) where the decision or order has been made by a Collector of Central Excise or of Customs, as the case may be, to the Administrator;

(b) where the decision or order has been made by any officer below the rank of a Collector of Central Excise or of Customs, as the case may be,—

(i) to the Collector of Central Excise or of Customs, as the case may be, to whom the officer who made such decision or order is subordinate, or

(ii) if the Central Government so directs, to the Appellate Collector of Customs,

within a period of three months from the date of communication to such person of the decision or order:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring an appeal within the aforesaid period of three months, allow such appeal to be preferred within a further period of three months.

(2) The appellate authority may, after giving to the appellant an opportunity of being heard, if he so desires, and after making such further inquiries, if any, as it may consider necessary, pass such order as it thinks fit, confirming, modifying or reversing the de-

cision or order appealed against, or may send back the case, with such directions, as it may think fit, for a fresh adjudication or decision, as the case may be, after taking additional evidence, if necessary:

Provided that an order enhancing any penalty or fine in lieu of confiscation or confiscating goods of greater value shall not be made under this section unless the appellant has had an opportunity of making a representation and, if he so desires, of being heard in his defence.

Power of revision of the Administrator.

81. The Administrator may, of his own motion or otherwise, call for and examine the record of any proceeding in which any order of adjudication of confiscation or penalty, or any other decision or order has been made by any Gold Control Officer and against which no appeal has been preferred, for the purpose of satisfying himself as to the correctness, legality or propriety of such order or decision and may pass such orders theron as he may think fit:

Provided that no decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has within a period of two years from the date of such decision or order received a notice to show cause why such decision or order shall not be varied, and

(b) has been given a reasonable opportunity of making a representation and, if he so desires, of being heard, in his defence.

Power of revision of the Central Government.

82. (1) The Central Government may, on the application of any person aggrieved by any decision given or order made under this Act from which no appeal lies, pass such orders as it may think fit if such application has been made within six months from the date of the decision or order or within such further time as the Central Government may allow.

(2) The Central Government may, on its own motion or otherwise, call for and examine the record of any proceeding in which any decision or order has been made on appeal for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it may think fit.

(3) No decision or order shall be varied under this section so as to prejudicially affect any person unless such person—

(a) has, within a period of one year from the date of such decision or order, received a notice to show cause why such decision or order shall not be varied, and

(b) has been given a reasonable opportunity of making a representation and, if he so desires, of being heard, in his defence.

83. (1) Every person or authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters; namely:—

- (a) summoning and enforcing the attendance of witnesses;
- (b) requiring the discovery and production of any document;
- (c) requisitioning any public record or copy thereof from any court or office;
- (d) receiving evidence on affidavits; and
- (e) issuing commissions for the examination of witnesses or documents.

(2) Every person or authority making any adjudication or hearing any appeal or exercising any powers under this Act shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898.

(3) Every person or authority making any adjudication or hearing any appeal or exercising any powers of revision under this Act shall have the power to make such orders of an interim nature as it may think fit and may also, for sufficient cause, order the stay of operation of any decision or order.

84. Notwithstanding anything contained in any other law—

(a) any order passed by the Administrator or the Central Government in revision,

(b) subject to such order of the Government or the Administrator, any order passed on appeal, and

(c) subject to the final order of the Central Government or of the Administrator in revision and the order on appeal, any order of adjudication of confiscation, fine or penalty, or any other decision given or order made under this Act,

shall be final and shall not be called in question in any court except in a High Court and except on a question of law.

CHAPTER XV OFFENCES AND THEIR TRIAL

85. Whoever, in contravention of the provisions of this Act or any rule or order made thereunder,—

- (i) makes, manufactures, prepares or processes any primary gold, or

Punishment for illegal possession, etc., of gold.

(ii) owns or has in his possession, custody or control any primary gold, or

(iii) buys or otherwise acquires, or accepts or otherwise receives, or agrees to buy or otherwise acquire or to accept or otherwise receive, any primary gold, or

(iv) sells, delivers, transfers or otherwise disposes of, or agrees to sell, deliver, transfer or otherwise dispose of, or exposes or offers for sale, delivery, transfer or disposal, any primary gold, or

(v) melts, assays, refines, extracts, alloys, or converts any gold or subjects it to any other process, or

(vi) makes, manufactures, prepares, repairs, polishes or processes, or places any order for the making, manufacturing, preparing, repairing, polishing or processing of, any article or ornament, or

(vii) buys or otherwise acquires, or accepts or otherwise receives, or agrees to buy or otherwise acquire or to accept or otherwise receive, or sells, delivers, transfers or otherwise disposes of, or agrees to sell, deliver, transfer or otherwise dispose of, or exposes or offers for sale, delivery, transfer or other disposal, any article or ornament, or

(viii) owns or has in his possession, custody or control any article or ornament, or

(ix) carries on any business or transaction in gold for which a licence or certificate is required to be obtained by or under this Act, or

(x) carries on business as a banker or money-lender, shall, without prejudice to any other action that may be taken under this Act, be punished with imprisonment for a term which shall not be less than six months but not more than three years and also with fine;

Provided that the court may, if it is satisfied that the special circumstances of the case so require, impose a sentence of imprisonment for a term which may be less than six months.

Failure to make a declaration

86. Whoever fails or omits to make a declaration [including a declaration referred to in sub-section (12) of section 16] without any reasonable cause or makes a declaration which is either false or which he knows or has reason to believe to be incorrect, shall, without prejudice to any other action that may be taken under this Act, be punished with imprisonment for a term which may extend to two years and also with fine.

87. Whoever omits without any reasonable cause to maintain Failure to submit returns or to maintain accounts. accounts or to submit any return in accordance with the provisions of this Act or any rule or order made thereunder or who keeps any accounts or makes any statement in any return which is false or which he knows or has reason to believe to be incorrect, shall, without prejudice to any other action that may be taken under this Act be punished with imprisonment for a term which may extend to two years and also with fine, and in the event of a second or subsequent offence, with imprisonment for a term which shall not be less than six months but not more than three years and also with fine.

88. (1) A dealer or refiner who knows or has reason to believe that any provision of this Act or any rule or order made thereunder has been, or is being contravened, by any person employed by him in the course of such employment, shall be deemed to have abetted an offence against this Act.

(2) Whoever abets, or is deemed under sub-section (1) to have abetted, an offence against this Act, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

89. Whoever,—

(i) counterfeits any stamp intending that the same shall be used for stamping any standard gold bar, article or ornament, or uses any counterfeit stamp knowing it to be counterfeit, or

(ii) falsely stamps any primary gold, article or ornament with the intention of causing it to be believed that such primary gold, article or ornament is of such purity as it mentioned in such stamp, or

(iii) sells, delivers, transfers or otherwise disposes of, or agrees to sell, deliver, transfer or otherwise dispose of, or exposes or offers for sale, delivery, transfer, or disposal, falsely stamped primary gold, article or ornament knowing or having reason to believe it to be so, or

(iv) unlawfully has in his possession, custody or control any implement, instrument, apparatus, appliance, machinery or other equipment or any chemical, mould, stamp or any other material which he either knows or has reason to believe to be intended for refining or assaying any primary gold or for counterfeiting any mark on any standard gold bar, article or ornament.

shall be punished with imprisonment for a term which shall not be less than six months but not more than three years and shall also be liable to fine:

Provided that the court may, if it is satisfied that the special circumstances of the case so require, impose a sentence of imprisonment for a term which may be less than six months.

Punish-
ment for
allowing
premises
to be
used as
refinery.

Punish-
ment for
offences
for which
no punish-
ment is
provided.

Power of
court to
order
for-
feiture.

Offences
by com-
panies.

90. Whoever knowingly allows any person to use any premises or any part thereof as a refinery in contravention of the provisions of section 194 shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

91. Whoever contravenes any provisions of this Act or any rule or order made thereunder for which no punishment is separately provided in this Chapter, shall be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

92. A court trying an offence against this Act may order the forfeiture of any implement, instrument, apparatus, appliance, machinery or other material which the court is satisfied has been used in or in connection with the making or manufacturing of any standard gold bar, primary gold, article or ornament in contravention of the provisions of this Act or of any rule or order made thereunder.

93. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals and;

(b) "director" in relation to a firm, means a partner in the firm.

94. Any officer exercising powers under this Act or any rule or order made thereunder, who knows that there are no reasonable grounds for suspicion for so doing, and yet—

Wrongful search,
seizure,
etc., by
Gold Con-
trol Officer.

(a) searches or causes to be searched any house, conveyance or place,

(b) searches or arrests any person, or

(c) seizes any movable property,

shall, for every such offence, be punished with fine which may extend to two thousand rupees.

95. (1) Any Gold Control Officer who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of the Collector of Central Excise or of Customs, as the case may be, or has other lawful excuse for so doing, be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Failure of
Gold Con-
trol Officer
in duty
or his
connivance
at the
contraven-
tion of
the pro-
visions of
this Act.

(2) Any Gold Control Officer who wilfully aids in or connives at the contravention of any provision of this Act or of any rule or order made thereunder shall, for every such offence, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

96. Any person who wilfully or maliciously gives any false information which leads to any arrest, search or seizure under this Act shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Punish-
ment for
giving
false in-
formation.

97. (1) Save as otherwise provided in sub-section (2), no court shall take cognizance of any offence against this Act except on a complaint in writing made by a Gold Control Officer, not below the rank of a Collector of Central Excise or of Customs, having jurisdiction over the area in which the offence is committed or any person authorised by him in writing in this behalf.

Cognizance
of offences.

(2) No court shall take cognizance of any offence against this Act committed by a Gold Control Officer, except on a complaint in writing made with the previous sanction of the Central Government.

**Offences
to be
tried
summarily.**

98. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,—

(i) no magistrate, other than a presidency magistrate or a magistrate of the first class shall try an offence against this Act,

(ii) every offence against this Act may be tried summarily by a magistrate.

CHAPTER XVI

MISCELLANEOUS

**Presumption
as to
ownership
of gold.**

99. Any person who has in his possession, custody or control any primary gold, article or ornament shall be presumed, unless the contrary is proved, to be the owner thereof.

**Precautions
to be taken
by licensed
refiner,
dealer or
certified
goldsmith,
before ac-
quiring
any gold.**

100. Every licensed dealer or refiner or certified goldsmith shall, before accepting, buying or otherwise receiving any gold from any person, take all reasonable steps to satisfy himself as to the identity of such person and if, after an inquiry made by an officer authorised in this behalf by the Administrator, it is found that such person is not either readily traceable or is a fictitious person, it shall be presumed, unless such dealer or refiner or certified goldsmith, as the case may be, establishes that he had taken all reasonable steps to satisfy himself as to the identity of such person, that such gold was bought, acquired, accepted or received by such licensed dealer or refiner or certified goldsmith, as the case may be, in contravention of the provisions of this Act.

**Power to
take sam-
ples.**

101. (1) A Gold Control Officer authorised in this behalf may—

(a) take samples of gold from any dealer, refiner or other person;

(b) send such samples for assay or analysis to such authority as may be prescribed and require such authority to send to him a report as to the result of the assay or analysis.

(2) Where any sample has been taken under sub-section (1),—

(a) such sample shall be restored to the person from whom it was taken after the purpose for which it was taken has been carried out but if such person fails to take delivery of the sample within three months from the date on which it was proposed to be returned to him, it may be disposed of in such manner as the Administrator may direct;

(b) no compensation shall be payable for any reduction in the weight of such sample by reason of any test, assay or analysis.

102. The Central Government may, by notification, direct that all or any of the powers which may be exercised by it under this Act, except those conferred by section 114, shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised also by such person or authority as may be specified therein.

103. (1) Where the business of a licensed dealer or refiner is transmitted by succession, intestate or testamentary, the heir or legatee, as the case may be, shall not carry on such business or run such refinery either in his own name or in some other name unless the heir or legatee has, before the expiry of sixty days after the date of such transmission, made to the Administrator an application for the issue of a licence in accordance with the provisions of this Act:

Provided that nothing in this section shall be deemed to prohibit the heir or legatee from carrying on business as a dealer or refiner for the aforesaid period of sixty days, and, if he has applied for such licence, until he is granted the licence or is, by a notice in writing, informed by the Administrator that such licence cannot be granted to him.

(2) Where the business of a licensed dealer or refiner is transferred by sale gift, lease or otherwise, the transferee or lessee, as the case may be, shall not carry on such business or run such refinery either in his own name or in some other name unless he has obtained a licence in accordance with this Act to carry on such business or to run refinery.

(3) The provisions of section 53 shall apply to the gold in the possession, custody or control of an heir, legatee, transferee or lessee referred to in sub-section (1) or sub-section (2) who does not intend to carry on business as a licensed dealer or refiner or whose application for the issue of a licence has been rejected, as they apply to the gold in the possession, custody or control of a licence has been rejected, or the period of validity of whose licence has been rejected, or the period of validity of whose licence has expired or whose licence has been cancelled.

Prohibition of use of buildings for carrying on unlicensed refinery.

104. No person,—

(a) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, shall let the same or any part thereof with the knowledge that the same or part thereof is intended to be used as a refinery or wilfully allow any person to use such premises or any part thereof as a refinery unless the refiner has been licensed under this Act; or

(b) being the tenant, lessee or occupier or any person in charge of any premises, shall use, or allow any person to use, such premises or any part thereof as a refinery unless the refiner has been licensed under this Act.

Officers required to assist Gold Control Officer.

105. All officers of police and all officers of Government engaged in the collection, or prevention of evasion, of revenue are hereby required and empowered to assist the Gold Control Officers in the execution of the provisions of this Act or of any rule or order made thereunder.

Recovery of sums due to Government.

106. In respect of any penalty imposed under this Act and any other sum of any kind payable to the Central Government under any of the provisions of this Act or of any rule or order made thereunder, the Gold Control Officer, who is empowered to impose such penalty or to require the payment of such sum, may deduct the amount of the penalty or such sum from any money owing to the person from whom such penalty or such sum may be recoverable or due, or may recover such amount or sum by attachment and sale of the goods belonging to such person; and if the amount of the penalty or other sum is not so recovered, the Gold Control Officer may prepare a certificate signed by him specifying the amount or other sum due from the person liable to pay the amount or sum and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount or sum specified therein as if it were an arrear of land revenue.

Secrecy and fidelity.

107. (1) All particulars contained in any return or declaration made or accounts, registers or other documents produced in accordance with this Act shall, save as otherwise provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to require the Administrator or any person authorised by the Administrator under this Act or any officer or other employee of Government to produce before it any such return, declaration, accounts, registers or other documents or any part thereof or to give evidence before it in respect thereof.

(2) The Administrator or any person exercising any powers or performing any functions under this Act shall not divulge—

(i) any information contained in any return or declaration made to, or any account, register or other document produced before, or inspected by him, or

(ii) any other fact or information which comes to his knowledge by virtue of his office or in the course of his duty.

(3) The Administrator or any gazetted officer authorised by him in this behalf may request any officer of Government or the Reserve Bank of India to furnish any information relating to any particulars contained in any return or declaration made to, or any accounts, registers or other documents produced before or inspected by such officer under the provisions of any law if, in the opinion of the Administrator or the gazetted officer aforesaid, such information is necessary for the implementation of any provisions of this Act; and when such request is made, the officer of Government or Reserve Bank of India, as the case may be, shall comply with such request notwithstanding the provisions of any such law forbidding the furnishing of such information.

(4) Nothing in this section shall apply to, and in relation to, the disclosure of any information referred to in sub-section (1) or sub-section (2)—

(a) for the purposes of any prosecution for any offence against this Act, or

(b) to any officer of Government where it is necessary to make such disclosure to such officer for the purposes of this Act or of any other law.

108. No suit, prosecution or other legal proceeding shall lie against ~~Prote-~~ the Central Government, the Administrator, any Gold Control Officer or any person authorised by the Central Government or the Administrator for performing any functions under this Act, for ~~action taken in~~ anything which is in good faith done or intended to be done under ~~faith~~ this Act or any rule or order made thereunder.

* * * * *

Power to exempt

109. Where, on the recommendation of the Administrator or otherwise, the Central Government is of opinion that it is necessary or expedient in the public interest so to do, it may, by order and subject to such conditions, if any, as it may specify in the order exempt any dealer or any refiner or any other person from the operation of all or any of the provisions of this Act and may, as often as may be, revoke or modify such order.

Procedure in respect of gold seized by police officers.

110. (1) Where any police officer seizes any gold which is alleged or suspected to have been stolen or which is found under circumstances which create suspicion of the commission of an offence, such police officer shall forthwith report the seizure of such gold to the nearest Gold Control Officer of or above the rank of a Superintendent of Central Excise.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, in every case referred to in sub-section (1), ^{5 of 1898.} the police officer shall immediately after the dismissal of the complaint or the conclusion of the inquiry or trial, as the case may be, cause such gold to be conveyed and delivered to the nearest Gold Control Officer of or above the rank of a Superintendent of Central Excise.

Effect of Act and rules, etc., inconsistent with other enactments.

111. The provisions of this Act or any rule or order made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Presumption as to orders.

112. Where an order purports to have been signed by the Administrator or any person authorised in this behalf in exercise of any power conferred by or under this Act, a court shall presume, within the meaning of the Indian Evidence Act, 1872, that such order was so made by that person. ^{1 of 1872.}

Service of order, decision, etc.

113. Any order or decision passed or any summons or notice issued under this Act, shall be served—

(a) by tendering the order, decision, summons or notice, or sending it by registered post, to the person for whom it is intended or to his agent; or

(b) if the order, decision, summons or notice cannot be served in the manner provided in clause (a), by affixing it on the notice board of the office of the Gold Control Officer.

114. (1) The Central Government may, by notification, make rules for carrying out the purposes of this Act.

Power to
make
rules.

(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) fineness, dimensions, weight and description of a standard gold bar;

(b) particulars to be stamped on a standard gold bar, article or ornament;

(c) forms of—

(i) monthly accounts to be submitted by public religious institutions;

(ii) declarations;

(iii) licences and applications for the issue or renewal thereof;

(iv) certificates and applications for the issue or renewal thereof;

(v) declarations to be made as to recovery of gold by a silver refiner;

(vi) accounts and returns to be submitted by a person acquiring gold under any permit or other authority;

(vii) permits to be granted under this Act;

(viii) returns to be submitted by a licensed dealer or refiner;

(ix) identity card of an artisan;

(x) register of artisans;

(xi) accounts to be maintained by a licensed dealer or refiner or a certified goldsmith;

(d) conditions, limitations and restrictions subject to which—

(i) a dealer may sell, deliver, transfer or otherwise dispose of any gold on the hypothecation, pledge, mortgage or charge of which he had advanced any loan;

(ii) a refiner may refine gold;

(iii) a licensed refiner may buy, acquire, accept or receive, gold, or melt, assay, refine, extract or alloy gold or subject it to any other process, or sell, deliver, transfer or otherwise dispose of any gold;

(iv) a licensed dealer may buy, acquire, accept or receive or sell, deliver, transfer or dispose of gold;

(e) fees or charges to be paid—

(i) in respect of applications for the issue or renewal of licences or certificates;

(ii) for exercising supervision over the making, manufacturing or preparing any article or thing made of, or containing, gold of any purity;

(iii) for any appeal or application for revision;

(f) period—

(i) of validity of a licence, certificate or permit;

(ii) within which returns and declarations as to gold should be submitted by dealers, refiners and other persons;

(g) manner in which samples of gold may be taken from any dealer, refiner or other person and the person to whom such samples may be sent for assay or analysis;

(h) manner—

(i) in which accounts are to be submitted by public religious institutions;

(ii) of endorsement on a declaration, when any gold is acquired or parted with;

(iii) of publication of notices and orders;

(i) regulating the use and consumption of gold by industrial users and other persons;

(j) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this section shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be: so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

115. (1) Where, by this Act, a power has been conferred on the Central Government or the Administrator to make any authorisation or exemption or to make any order or direction, then, such power may be exercised by a general or special order.

(2) Where, by this Act, a power has been conferred on the Central Government or the Administrator to empower or authorise any officer, then, such officer may be empowered or authorised, as the case may be, by name or by virtue of office.

18 of 1965.
6 of 1968.

116. (1) The Gold (Control) Act, 1965, and the Gold (Control) Ordinance, 1968, are hereby repealed.

6 of 1968.

(2) Notwithstanding such repeal, anything done or any action taken, including any notification, order or appointment made, direction given, notice, licence or certificate issued, permission, authorisation or exemption granted, confiscation adjudged, penalty or fine imposed, or forfeiture ordered, whether under the Gold (Control) Ordinance, 1968, or Part XIIA of the Defence of India Rules, 1962, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made, given, issued, granted, adjudged, imposed or ordered, as the case may be, under the corresponding provision of this Act, as if this Act had commenced on the 29th day of June, 1968.

117. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order do anything (not inconsistent with the provisions of this Act) which appears to it to

Power of
Central
Govern-
ment and
Adminis-
trator to
empower
or
authorise
by general
or special
order.

Repeal and
savings.

Power to
remove
difficulties.

be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

S. L. SHAKDHER,
Secretary.